

# INDEX

## Volume I

	PAGE
Docket Entries .....	1a
Motion for Further Relief, filed September 6, 1968....	2a
Answer to Motion for Further Relief .....	9a
Transcript of March 10, 1969, hearing, pages 18-39, line 20; page 41, line 15 through page 85, line 23; page 352, line 10 through page 487, line 17; and page 544, line 3 through page 678, line 25 .....	11a
Opinion and Order Dated April 23, 1969, Regarding Desegregation of Schools of Charlotte and Meck- lenburg County, North Carolina .....	285a
Appendix .....	317a
Plaintiffs' Motion for Temporary Restraining Order dated May 15, 1969 .....	324a
Defendants' Plan for Desegregation, filed May 28, 1969 .....	330a
Defendants' Report in Connection with Plan of De- segregation filed May 28, 1969 .....	341a
Appendix .....	346a
Defendants' Response to Motion for Temporary Re- straining Order, filed May 29, 1969 .....	365a
Order Dated June 3, 1969 .....	370a

	PAGE
Order Adding Additional Parties, dated June 5, 1969	372a
Motion to Set Aside Order Joining Additional Parties Defendant, filed June 12, 1969 .....	376a
Plaintiffs' Response to Defendants' Motion to Strike Additional Parties Defendant, filed June 16, 1969	379a
Transcript of June 16, 1969, Proceedings, page 487, line 22 through page 544, line 8 .....	383a
Tentative Plan for the Integration of the Charlotte-Mecklenburg Schools (for discussion purposes), dated May 8, 1969 .....	431a
Opinion and Order dated June 20, 1969 .....	448a
Supplemental Findings of Fact in Connection with the Order of June 20, 1969 (dated June 24, 1969)	459a
Plaintiffs' Motion to File Supplemental Complaint, filed July 22, 1969 .....	460a
Order Allowing Filing of Supplemental Complaint, filed July 22, 1969 .....	464a

## Volume II

Plaintiffs' Supplemental Complaint, filed July 22, 1969 .....	465a
Exhibit A Attached to Foregoing Supplemental Complaint .....	477a
Defendants' Amendment to Plan for Further Desegregation, filed July 29, 1969 .....	480a



	PAGE
Defendants' Report in Connection with Amendment to Plan for Further Desegregation, filed August 4, 1969 .....	491a
Exhibits attached to foregoing Report .....	498a
Transcript of August 5, 1969, Proceedings: page 4, line 22 through page 41, line 17; and page 57, line 5 through page 84, line 25 .....	525a
Answer of the Defendants, the North Carolina State Board of Education and the Superintendent of Public Instruction for the State of North Carolina, to the Supplemental Complaint, filed August 11, 1969 .....	575a
Order dated August 15, 1969 .....	579a
Order dated August 29, 1969 .....	593a
Plaintiffs' Motion for Further Relief, filed September 2, 1969 .....	596a
Order dated October 10, 1969 .....	601a
Defendants' Response to Motion for Further Relief, filed October 11, 1969 .....	606a
Summation of Integration 1965 (March) and 1968-69 (Oct. 1, '68) and 1969-70 (Oct. 2, '69) (App. 1, pp. 63-70) .....	608a
Defendants' Report to the Court Pursuant to Order of October 10, 1969, and filed October 30, 1969 .....	616a
Exhibits annexed to foregoing Report .....	626a

	PAGE
Order dated November 7, 1969 .....	655a
Memorandum Opinion dated November 7, 1969 .....	657a
Amendment to Plan for Further Desegregation of Schools, filed November 17, 1969 .....	670a
Report submitted in Connection with the November 13 (17), 1969, Amendment to Plan for Further Desegregation .....	680a
Exhibits annexed to foregoing Report .....	691a
Plaintiffs' Response to Defendants' Amendment to Plan for Further Desegregation of Schools, filed November 21, 1969 .....	692a
Opinion .....	698a
Order dated December 1, 1969 .....	714a
Order dated December 2, 1969 .....	717a
Motion for Immediate Desegregation, filed January 20, 1970 .....	718a
Plan for Desegregation of Schools Submitted Feb- ruary 2, 1970 .....	726a
Exhibits annexed to Foregoing Plan .....	744a
Transcript of February 2 and February 5, 1970, Proceedings: page 43, line 5 through page 11, line 15; and page 137, line 1 through page 150, line 1 .....	749a

	PAGE
Motion for Hearing on Plans for Desegregation of Charlotte-Mecklenburg Public Schools, filed Feb- ruary 6, 1970 .....	817a
Order dated February 5, 1970 .....	819a
Motion to Add Additional Parties Defendant and for Further Relief, filed February 13, 1970 .....	840a
Notification and Request for a Three-Judge Court, filed February 20, 1970 .....	845a
Defendants' Tender of Evidence Nunc Pro Tunc and Objections filed February 24, 1970 .....	848a
Affidavit of William C. Self Referred to in Forego- ing Tender of Evidence .....	850a
Affidavit of J. D. Morgan Referred to in Foregoing Tender of Evidence .....	853a
Board of Education Plan Referred to in Tender of Evidence .....	867a

### Volume III

Affidavit of Louis W. Alexander Referred to in Ten- der of Evidence .....	891a
Affidavit of Herman J. Hoose Referred to in Tender of Evidence .....	894a
Affidavit of Robert L. Deaton Referred to in Tender of Evidence .....	898a

	PAGE
Order Adding Additional Parties Defendant, filed February 25, 1970 .....	901a
Notice of Appeal, filed February 25, 1970 .....	904a
Plaintiffs' Motion to Add Additional Parties Defendant and for Further Relief, filed February 27, 1970 .....	906a
Plaintiffs' Motion for Temporary Restraining Order and for Contempt, filed February 27, 1970 .....	914a
Plaintiffs' Request for Admission of Facts, filed February 27, 1970 .....	918a
Amendment, Correction or Clarification of Orders of February 5, 1970, dated March 3, 1970 .....	921a
Court of Appeals Order Granting Stay Order of March 5, 1970 .....	922a
Order Suspending Superior Court Temporary Restraining Order, entered by Judge Snepp, filed March 6, 1970 .....	925a
Order of March 6, Directing Parties to Prepare and File Additional Evidence by March 13, 1970, dated March 6, 1970 .....	928a
Order Directing Parties to Submit Information with Respect to Specific Inquiries of the Court, filed March 6, 1970 .....	930a
Deposition of John A. Finger, dated March 11, 1970	932a

Defendants' Response to Plaintiffs' Request for Admissions dated March 13, 1970 .....	1011a
Defendants' Submissions to Court in Response to March 6, 1970, Order and Motion for Extension of Time, filed March 13, 1970 .....	1014a
Exhibits Annexed to Foregoing Submissions ....	1015a
Affidavit of Herman J. Hoose Referred to in Foregoing Submissions .....	1038a
Defendants' Submissions to Court in Response to March 6, 1970, Order, filed March 17, 1970 .....	1041a
Affidavit of William C. Self Referred to in Foregoing Submissions .....	1042a
Affidavits of J. D. Morgan, Ralph Neill and W. H. Harrison Referred to in Foregoing Submissions ..	1045a
Exhibits Annexed to Foregoing Affidavits .....	1047a
Deposition of J. D. Morgan dated March 19, 1970 ....	1069a
Exhibit Annexed to Foregoing Affidavit .....	1188a
Defendants' Response to Plaintiffs' Supplemental Exhibit of March 20, 1970, submitted March 21, 1970 .....	1192a
Response to Plaintiffs' Supplemental Exhibit of March 20, 1970 .....	1193a
Tabulation .....	1196a

	PAGE
Supplementary Findings of Fact dated March 21, 1970 .....	1198a
Supplemental Memorandum dated March 21, 1970....	1221a
Defendants' Objections and Exceptions to Supplementary Findings of Fact of March 21, 1970, and Motion for Modification and Clarification Thereof dated March 25, 1970 .....	1239a
Order dated March 25, 1970 .....	1255a
Further Findings of Fact on Matters Raised by the March 26, 1970, Motions of Defendants dated April 3, 1970 .....	1259a
Opinions of Court of Appeals dated May 26, 1970 ....	1262a
Judgment of Court of Appeals .....	1304a
Order of Three-Judge District Court dated April 29, 1970 .....	1305a
Order Granting Certiorari dated June 29, 1970 .....	1320a

**Supplemental Complaint**

(Filed July 22, 1969)

**I**

This Supplemental Complaint is a proceeding for a temporary restraining order and a preliminary and permanent injunction against the enforcement of the portions of North Carolina General Statutes §115-176.1, (Chapter 1274 of the Session Laws of the 1969 General Assembly of North Carolina, ratified on July 2, 1969, a copy of which is attached hereto as Exhibit A) which reads:

"No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion or national origin. Involuntary bussing of students in contravention of this Article is prohibited, and public funds shall not be used for any such bussing."

In addition, plaintiffs seek a declaratory judgment that the statutory provisions complained of are unconstitutional on their face and as applied.

**II**

A. Jurisdiction of this Court is invoked under 28 U.S.C. § 1343, this being a suit in equity authorized by 42 U.S.C. § 1983 to redress the deprivation, under color of North Carolina Law, of rights, privileges and immunities guaranteed by the Thirteenth and Fourteenth Amendments to the Constitution of the United States.

B. Jurisdiction is further invoked under 28 U.S.C. §§ 2281 and 2284, this being a suit for a temporary restraining order, an interlocutory and permanent injunction restrain-

### *Supplemental Complaint*

ing the enforcement, operation and execution of portions of North Carolina General Statutes §115-176.1 and requiring the convening of a three-judge Federal Court. Jurisdiction is further invoked under 28 U.S.C. §§ 2201 and 2202, this being a suit for a declaratory judgment declaring the unconstitutionality of portions of North Carolina General Statutes 115-176.1.

### III

A. The plaintiffs bringing this Supplemental Complaint are those plaintiffs who originally brought this action styled *James E. Swann, et al., v. Charlotte-Mecklenburg Board of Education*, Civil Action No. 1974, which was filed on January 12, 1965.

B. This Supplemental Complaint, as the original complaint, is brought on behalf of the individual plaintiffs and other black students and parents similarly situated, pursuant to Rule 23 (a) and (b) of the Federal Rules of Civil Procedure. There are common questions of law and fact affecting the rights of such other black students, who are and have been limited, classified, segregated or otherwise discriminated against in ways which deprive or tend to deprive them of equal educational opportunities because of race or color. The members of the class are so numerous as to make it impracticable to bring them all before the Court. A common relief is sought and plaintiffs adequately represent the interests of the class.

### IV

The defendants in this action are:

(a) The Charlotte-Mecklenburg Board of Education, the original defendant in this case, and the individual members



### *Supplemental Complaint*

thereof heretofore added as defendants by order of the Court dated June 4, 1969;

(b) The North Carolina State Board of Education, a public body corporate of the State of North Carolina, which is charged by the State Constitution and laws with the duty and responsibility of the general supervision and administration of the public schools and educational funds of the State of North Carolina; and

(c) Dr. A. Craig Phillips, who is the elected State Superintendent of Public Instruction of the State of North Carolina, the administrative head of the Public School System of the State and by force of law, a member and the Secretary of the State Board of Education.

### V

Plaintiffs initially commenced this action on January 12, 1965, (Civil Action No. 1974) against the Charlotte-Mecklenburg Board of Education seeking to obtain the elimination of racial segregation in the public schools in Mecklenburg County.

### VI

On July 14, 1969, the Court entered an Order approving a plan submitted by the Board for the desegregation of the schools. The plaintiffs appealed and the decision was affirmed by the United States Court of Appeals for the Fourth Circuit. (*Swann v. Charlotte-Mecklenburg Board of Education*, 369 F.2d — (Fourth Circuit 1966).)

### VII

A. On September 6, 1968, the plaintiffs moved the Court for further relief contending that the Board was required

*Supplemental Complaint*

to take further steps to disestablish the dual school system in Mecklenburg County.

B. On April 23, 1969, the Court, following several days of testimony heard in March, 1969, entered an Opinion and Order Regarding the Desegregation of the Schools of Charlotte and Mecklenburg County. The Court found that the schools remained segregated, that the pupil assignment system and the placement of the schools continued to racially segregate the pupils, that the faculties had not been adequately desegregated as previously directed by the Court in 1965 and that the Board was to submit a plan for the desegregation of the schools by May 15, 1969.

C. The Order directed the defendants to submit a plan for the active and complete desegregation of the teachers within the system to be effective in the 1969-70 school year and that the plan should seek to apportion teachers to each school in substantially the same ratio (3 to 1) as the ratio of white teachers and black teachers in the system at large.

D. The defendants were also directed to submit a plan and timetable for the active and complete desegregation of the pupils within the system to be predominantly effective in the fall of 1969, and to be completed by the fall of 1970.

E. The Board was directed to consider several methods of desegregation which had been advanced by the plaintiffs, including pairing of grades and schools; feeding elementary schools into junior and senior high schools; combining zones and free choice where each method proceeds logically toward eliminating segregation; bussing and other trans-

*Supplemental Complaint*

portation; setting up large consolidated school units freely crossing city and county lines to serve larger areas; and to seek aid as may be available from State and Federal agencies.

F. The Court thereafter upon request of defendant, granted an extension of time until May 29, 1969, within which to file its plan.

## VIII

A. On May 15, 1969, the plaintiffs filed a motion for a temporary restraining order seeking to restrain all school construction pending approval by the Court of a school construction plan designed to promote desegregation of the schools.

B. The Board filed its plan on May 28, 1969, as required by the Order of the Court.

C. On June 4, 1969, the Court entered orders setting a date for hearing on the adequacy of the defendant's plan and set forth certain questions to which the parties were to respond at the hearing. In addition, the Court ordered that all members of the Board of Education be added as parties-defendant.

D. On June 11, 1969, the plaintiffs filed objections to the plan submitted by the defendant and moved for civil contempt.

E. On June 11, 1969, the defendants moved to set aside the Order of the Court adding the individual Board members as defendants. On June 12, 1969, a similar motion was filed on behalf of the defendant, William E. Poe. The plaintiffs filed a response in opposition to these motions.

*Supplemental Complaint*

F. A hearing was held on the adequacy of the plan and on all pending motions on June 16, 17, and 18, 1969.

**IX**

A. The Court entered an Opinion and Order dated June 20, 1969, which was supplemented by additional findings on June 24, 1969.

B. The Court denied the motions of the individual Board members to dismiss and denied plaintiffs' motion for contempt.

C. The Court found that a desegregation plan had been submitted to the Board by the Superintendent, but that the Board struck out virtually all the effective provisions of the plan; that the plan filed as to pupils and teachers was nearly identical to the one previously found racially discriminatory; that the attendance areas of several of the schools were racially gerrymandered; that the defendants had not met their burden to show that the school construction plan would promote the desegregation of the schools.

D. The Court found that desegregation of schools is something that has to be accomplished independent of freedom of transfer.

E. The Court ordered the defendants to prepare and submit by August 4, 1969, a positive plan for the desegregation of the Charlotte-Mecklenburg School System as originally directed on April 23, 1969.

*Supplemental Complaint***X**

A. The April 23, 1969 Order of the Court contained the following findings by the Court:

*"The 'Neighborhood School' Theory . . .*

. . .

The neighborhood school concept may well be invalid for school administrative purposes even without regard for racial problems. The Charlotte-Mecklenburg School Board, today, for example, is transporting 23,000 students on school busses. First graders may be the largest group so transported. If a first grader lives far enough from school to ride a bus, the school is not part of his neighborhood.

When racial segregation was required by law, nobody evoked the neighborhood school theory to *permit* black children to attend white schools close to where they lived. The values of the theory somehow were repudiated by the 1955 North Carolina General Assembly and still stands repudiated in the Pupil Assignment Act of 1955-56, which is quoted above. The neighborhood school theory has no standing to override the Constitution.

*Bussing.* Under North Carolina General Statutes, §§115-180, the Board is expressly authorized to operate school busses to transport school children. The state pays bus expenses only for rural children and for some who have been annexed into the city in recent years. This apparent discrimination against city dwellers is reportedly under attack in another Court. This Board already transports 23,000 students to school every day out of the 32,000 who live in the

*Supplemental Complaint*

area presently eligible for bus service. The present cost of school bussing is about \$19 for bus operation plus the cost of the bus which is \$4,500 per bus should not exceed \$20 per pupil a year. In other words, it costs about \$40 a year per pupil to provide school bus transportation, out of total per pupil school operating costs of about \$540. The income of many black families is so low they are not able to pay for the cost of transportation out of segregated schools to other schools of their choice.

The Board has the power to use school busses for all legitimate school purposes. Busses for many years were used to operate segregated schools. There is no reason except emotion (and I confess to having felt my own share of emotion on this subject in all the years before I studied the facts) why school busses can not be used by the Board to provide the flexibility and economy necessary to desegregate the schools. Busses are cheaper than new buildings; using them might even keep property taxes down."

B. The Court found that 95% of the blacks were concentrated in the western portion of the City of Charlotte and that official action taken on schools, zoning and planning had contributed to this concentration.

**XI**

A. On May 7, 1969, a member of the Mecklenburg County House delegation of the North Carolina General Assembly introduced a bill (House Bill 990, a copy of which is attached hereto as Exhibit B) entitled "AN ACT TO PROTECT THE NEIGHBORHOOD SCHOOL SYSTEM AND TO PROTECT THE IN-VOLUNTARY BUSSING OF PUPILS OUTSIDE THE DISTRICT IN

*Supplemental Complaint*

WHICH THEY RESIDE." The Bill, as subsequently amended, was ratified on July 2, 1969 (See Exhibit A), and is now codified as North Carolina General Statutes §115-176.1.

B. The ratified bill, which has the same title as the bill introduced on May 7, 1969, provides:

1. Students cannot be excluded from any school on account of race.
2. Students shall be assigned to the school within the geographical district where the pupil resides, except for children attending special schools or except for any reason the local board deems sufficient.
3. *"No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion or national origins. Involuntary bussing of students in contravention of this article is prohibited, and public funds shall not be used for any such bussing."*
4. The article does not apply in temporary situations of unsuitability of schools or over-crowding.
5. Nor does it apply to "any assignment made pursuant to a choice made by any pupil . . . pursuant to . . . a freedom of choice plan voluntarily adopted by the Board."

## XII

The defendants State Board of Education and State Superintendent of Public Instruction are responsible to insure that the prohibitions against involuntary student assignments and bussing contained in North Carolina General Statutes §115-176.1 are complied with in the Charlotte-

*Supplemental Complaint*

Mecklenburg School System and other administrative units throughout the State and that public funds over which they have control not be used for any such bussing.

**XIII**

Involuntary bussing and pupil assignments which are prohibited by North Carolina General Statutes §115-176.1 are necessary devices to carry out the existing orders of this and other Federal Courts in North Carolina and to comply with the duties imposed by the Constitution upon defendants herein and other school officials in North Carolina. The purpose, motive and effect of provisions of North Carolina General Statutes §115-176.1 complained of herein, is to forbid these defendants and other school officials in North Carolina from complying with existing lawful orders of this and other Federal Courts and to forbid them from complying with the requirements of the Thirteenth and Fourteenth Amendments to the Constitution in the State of North Carolina. The provisions thus violate the constitutional rights of plaintiffs and other similarly situated.

**XIV**

Plaintiffs and those similarly situated and affected, on whose behalf this action is brought are suffering irreparable injury and will suffer irreparable injury in the future by reason of the provisions of the Statute complained of herein. They have no plain, adequate or complete remedy to redress the wrongs complained of herein other than this action for a declaratory judgment and injunction. Any other remedy to which plaintiffs could be remitted would be attended by such uncertainties and delays as to deny substantial relief, would involve a multiplicity of suits and would cause further irreparable injury.



*Supplemental Complaint*

WHEREFORE, plaintiffs respectfully pray that, upon the filing of this Supplemental Complaint, the Court:

1. Issue a temporary restraining order restraining the defendants, their agents and other persons acting in concert with them from giving consideration or effect to and from enforcing, administering, or applying the provisions contained in North Carolina General Statutes §115-176.1 complained of herein;

2. Convene a three-judge District Court as required by 28 U.S.C. §§2281 and 2284;

3. Advance this cause on the docket and order a speedy hearing of this action according to law and upon such hearing:

a. Enter judgment declaring the statutory provisions complained of herein void as repugnant to the Thirteenth and Fourteenth Amendments to the Constitution of the United States;

b. Enter a preliminary and permanent injunction restraining all defendants, their agents and other persons acting in concert with them from giving consideration or effect to and from enforcing, administering, or applying the complained provisions of North Carolina General Statutes §115-176.1;

c. Allow plaintiffs their costs herein, reasonable attorneys fees and such other and further relief as to the Court may appear equitable and just.

476a

*Supplemental Complaint*

Respectfully submitted,

/s/ ADAM STEIN

CONRAD O. PEARSON

203½ East Chapel Hill Street  
Durham, North Carolina

CHAMBERS, STEIN FERGUSON & LANNING

216 West Tenth Street  
Charlotte, North Carolina

JACK GREENBURG

JAMES M. NABRIT, III

NORMAN CHACHKIN

10 Columbus Circle  
New York, New York 10019

*Attorneys for Plaintiffs*

**Exhibit A Attached to Foregoing  
Supplemental Complaint**

**NORTH CAROLINA  
GENERAL ASSEMBLY**

**1969 SESSION**

**RATIFIED BILL**

**CHAPTER 1274**

**HOUSE BILL 990**

**AN ACT TO PROTECT THE NEIGHBORHOOD SCHOOL SYSTEM AND  
TO PROHIBIT THE INVOLUNTARY BUSSING OF PUPILS OUTSIDE  
THE DISTRICT IN WHICH THEY RESIDE.**

**The General Assembly of North Carolina do enact:**

**Section 1. There is hereby created a new Section of  
Chapter 115 of the General Statutes to be codified as G.S.  
115-176.1 and to read as follows:**

***"G.S. 115-176.1. Assignment of pupils based on race,  
creed, color or national origin prohibited. No person shall  
be refused admission into or be excluded from any public  
school in this State on account of race, creed, color or na-  
tional origin. No school attendance district or zone shall  
be drawn for the purpose of segregating persons of vari-  
ous races, creeds, colors or national origins from the com-  
munity.***

**Where administrative units have divided the geographic  
area into attendance districts or zones, pupils shall be as-  
signed to schools within such attendance districts; pro-  
vided, however, that the board of education of an admin-  
istrative unit may assign any pupil to a school outside of  
such attendance district or zone in order that such pupil**

*Exhibit A Attached to Foregoing Supplemental Complaint*

may attend a school of a specialized kind including but not limited to a vocational school or school operated for, or operating programs for, pupils mentally or physically handicapped, or for any other reason which the board of education in its sole discretion deems sufficient. No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion or national origins. Involuntary bussing of students in contravention of this Article is prohibited, and public funds shall not be used for any such bussing.

The provisions of this Article shall not apply to a temporary assignment due to the unsuitability of a school for its intended purpose nor to any assignment or transfer necessitated by overcrowded conditions or other circumstances which, in the sole discretion of the School Board, require assignment or reassignment.

The provisions of this Article shall not apply to an application for the assignment or re-assignment by the parent, guardian or person standing in loco parentis of any pupil or to any assignment made pursuant to a choice made by any pupil who is eligible to make such choice pursuant to the provisions of a freedom of choice plan voluntarily adopted by the board of education of an administrative unit."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. If part of the Act is held to be in violation of the Constitution of the United States or North Carolina, such part shall be severed and the remainder shall remain in full force and effect.

*Exhibit A Attached to Foregoing Supplemental Complaint*

Sec. 4. This Act shall be in full force and effect upon its ratification.

2

House Bill 990

In the General Assembly read three times and ratified, this the 2nd day of July, 1969.

H. P. TAYLOR, JR.

H. P. Taylor, Jr.

President of the Senate.

Philip P. Godwin

Philip P. Godwin

Speaker of the House of Representatives.

House Bill 990

3

**Amendment to Plan for Further  
Desegregation of Schools**

(Filed July 29, 1969)

Pursuant to the order of the Court dated June , 1969, the Board of Education proposed to amend and modify the amended plan submitted to the Court on May 28, 1969, by adding thereto the following:

*Policy Statement*

Equal opportunity to develop all capabilities to the fullest potential is the right of every individual in a democratic society. Since this right is a basic precept of education, it becomes the responsibility of those who make educational decisions to see that equality of opportunity is provided for all.

The Charlotte-Mecklenburg Board of Education affirms the long held principle that equality of educational opportunity for all children without regard to socio-economic, ethnic, religious, or racial differences is essential to the continued growth of our community and is basic to a free and open American democratic society.

The Board further believes that equality of educational opportunity can best be provided by attempting to free individuals from the burden and handicaps imposed by varied circumstances, backgrounds, and environmental differences. To this end the Board has devised an educational program which will to the greatest extent possible, provide for the equal development of all students regardless of such burdens and handicaps.

In this light, the Board of Education firmly believes further desegregation of students and professional staff will contribute to the educational and social development of all children. Based on its own experience and the experiences of other school systems, the Board is further of the belief

### *Amendment to Plan for Further Desegregation of Schools*

that desegregation of students should be coordinated with desegregation of teachers, principals, and staff members, both of which should be accomplished at the earliest possible date.

The section which follow outline the immediate plans of the Charlotte-Mecklenburg Board of Education for accomplishing this goal.

#### *Close Schools and Temporarily Re-assign Pupils*

The Charlotte-Mecklenburg School System has certain schools which are unsuitable for the continuation of an educational program because of the obsolescence of the physical plant and location, declining enrollment and other factors. The Board of Education will close the following schools and temporarily reassign students previously assigned to such schools to other schools more suitable for the quality of education of the students involved. Transportation will be provided pupils who are reassigned. The schools to be closed are:

#### *Elementary Schools*

Alexander Street

Bethune

Fairview

Zeb Vance

Isabella Wyche

#### *Projected Enrollment*

260

195

330

235

215

---

1,235

#### *Junior High Schools*

Irwin Avenue

#### *Projected Enrollment*

630

#### *Senior High Schools*

Metropolitan

#### *Projected Enrollment*

1,135

*Amendment to Plan for Further Desegregation of Schools*

The schools to which the 1,235 pupils from the five closed elementary schools will be reassigned are as follows:

## 1.

*Elementary*

Receiving School	Number Reassigned	Projected Enrollment		
		White	Negro	% Negro
Ashley Park	75	575	75	11
Beverly Woods	75	550	75	12
Huntingtowne Farms	60	570	70	11
Idlewild	90	573	92	14
Lansdowne	75	770	75	9
Merry Oaks	45	460	45	9
Olde Providence	90	535	100	16
Park Road	60	540	60	10
Sharon	100	425	100	19
Myers Park	50	437	73	14
Albemarle Road	50	500	50	9
Briarwood	45	670	50	7
Selwyn	75	615	80	12
Shamrock Gardens	60	535	60	10
Westerly Hills	75	605	75	11
Windsor Park	75	770	75	9
Winterfield	75	715	75	9
	1,175*	9,845	1,230	

\* The differential between students from the closed schools and the number of students reassigned will be filled by special education students reassigned to nearby schools.

Nine of the above schools have sufficient capacity to accommodate the students assigned. The capacity at eight schools would have to be increased by the use of mobile units. These mobile units would be transferred from three schools which are presently receiving additions: Matthews—2, Statesville Road—5, and Tryon



*Amendment to Plan for Further Desegregation of Schools*

## 2.

*Junior High*

Irwin Avenue Junior High students would be reassigned on the basis of the elementary schools they attended to schools having a low percentage of Negro enrollment. This reassignment would be as follows:

Receiving School	Number Reassigned	Projected Enrollment		
		White	Negro	% Negro
Smith	90	1470	90	6
McClintock	150	1325	200	13
Eastway	180	1360	183	12
Wilson	75	1140	135	11
Alexander Graham	135	1045	144	12
	<hr/> 630	<hr/> 6,340	<hr/> 752	

Students whose parents object to involuntary transportation at Irwin Avenue Junior High School will be instructed

Hills—7. By reopening Woodland Elementary School and housing the fifth and sixth graders from Paw Creek at this facility, an additional eight mobile units may be picked up from Paw Creek for use in the above schools.

The Board is aware of the fact that some parents may oppose the transportation of their children to distant schools which have the capacity to receive them. Should this occur, the following action will be taken: A program will be operated in the Zeb Vance building for elementary students from the former Zeb Vance, Isabella Wyche, and Bethune areas on a first come first served basis for students whose parents object to involuntary transportation. Students from Fairview and Alexander Street whose parents object to involuntary transportation will be instructed to enroll in the school nearest their place of residence. Zeb Vance and such nearby schools upon reaching a maximum capacity will not be permitted to receive additional students and such students will be assigned as previously reassigned.

*Amendment to Plan for Further Desegregation of Schools*

to enroll their students in the junior high school nearest their place of residence as long as space is available and will be reassigned on a first come first served basis. If space is not available, such students will attend the junior high school to which they were previously reassigned.

## 3.

*Senior High*

The Metropolitan Senior High School attendance area would be eliminated and the area divided among the surrounding senior high schools. Description of the revised attendance areas are as follows:

*East Mecklenburg*—Begin at the intersection of Central Avenue and Briar Creek Road. Proceed westward on Central Avenue to McDowell Street. Proceed south on McDowell to East Fourth Street. Proceed eastward on East Fourth Street and Randolph Road to Briar Creek.

*Myers Park*—Begin at Randolph Road on Briar Creek. Proceed west on Randolph Road-East Fourth Street to McDowell Street. Proceed north on McDowell to East Eleventh Street. Proceed west on Eleventh Street to North Tryon. Proceed south on Tryon Street to the intersection of South Tryon and Independence Boulevard.

*Garinger*—Begin at the intersection of Central Avenue at Briar Creek Road. Proceed westward on Central Avenue to the intersection of Central and McDowell Street. Proceed north on McDowell to East Eleventh Street and west on Eleventh Street to North Tryon, north on Tryon to Dalton Avenue. West on Dalton to North Graham.

*Amendment to Plan for Further Desegregation of Schools*

*Harding*—Begin at the intersection of Summit Avenue and South Tryon Street. Proceed north on South Tryon to West Trade. Proceed west on West Trade to Irwin Creek.

*West Charlotte*—Begin at the intersection of North Graham and Dalton Avenue. Proceed southeast on Dalton Avenue to North Tryon. Proceed south on North Tryon to the intersection of Tryon and Trade. Proceed west on West Trade to Irwin Creek.

*South Mecklenburg*—Begin at the intersection of South Boulevard and Scaleybark Road. Proceed north on South Boulevard and Camden Road to the intersection of South Tryon. Proceed southwest on South Tryon in a line to connect with Griffith Street. From Griffith Street, proceed in a line south to Nations Ford Road and the present South boundary. Continue southward on the present boundary.

Metropolitan Senior High School students would be re-assigned in this manner:

Receiving School	Number Reassigned	Projected Enrollment %		
		White	Negro	Negro
Harding	240	831	409	33
West Charlotte	185	0	1660	100
Garinger	85	2350	250	9
East Mecklenburg	250	2100	280	12
Myers Park	200	1802	308	15
South Mecklenburg	175	2084	231	10
	1135	9167	3138	

*Amendment to Plan for Further Desegregation of Schools*

*Transfer Some Students From All Or  
Predominantly Negro Schools To  
All Or Predominantly White Schools*

The Board of Education has determined that the following schools will experience substantial overcrowding during the 1969-70 school year. The Board of Education therefore proposes to reassign temporarily a portion of such students as follows:

<i>Schools</i>	<i>Number Reassigned</i>
Double Oaks	110
Amay James	225
Lincoln Heights	140
University Park	140
Barringer	280
Villa Heights	225
Lakeview	50
Wilmore	75
	<hr/>
	1245

Transportation for these 1245 pupils will be provided. The facilities and other factors of the following schools would provide more desirable educational conditions, and, therefore, such students would be reassigned to receiving schools as follows: Cotswold, Sedgfield, Thomasboro, Chantilly, Devonshire, Enderly Park, Hidden Valley, Midwood, Montclair, Oakhurst, Pinewood, Rama Road, Starmount, Steele Creek.

Facilities, student body growth and other factors make it impossible to determine at this time the precise allocation of such reassigned students to the receiving schools.

## *Amendment to Plan for Further Desegregation of Schools*

### *Restructure Of Attendance Lines*

The Charlotte-Mecklenburg Board of Education has conducted a preliminary review of school attendance lines. This review has revealed that it is possible to further pupil desegregation by a restructuring of attendance areas. Indeed, this restructure may well be the best long-range solution to the further desegregation of the schools.

Thus, the Board intends to undertake the extensive study immediately. The study will require approximately six months to complete. The procedure which the Board intends to use is based upon the concept of systems analysis assisted by computer calculations.

The results of the study will be incorporated in the pupil assignment plans for the 1970-71 school year.

### *Review Of Construction Program*

The Board of Education will institute a comprehensive review of the entire school construction program. The objective of this study will be to locate, construct, and organize school facilities in such a way as to promote desegregation to the extent possible. The study of the current construction program will be completed by February 15, 1970, and a more general long range study will be completed by June, 1970.

In addition to the study of the building program itself, the Board will point out to the Planning Board, the Housing Authority, the Urban Redevelopment Commission, real estate interests, local government officials and other interested parties the extent to which they share the responsibility for bringing about desegregation in this community. This study will also clarify for the community additional building funds which will be needed by the school system in the immediate future.

*Amendment to Plan for Further Desegregation of Schools*

While the total review of the building program is underway, the Board will conduct specific studies on all sites which it may be necessary to purchase and as each construction project which it may be necessary to begin before the study is completed. The purpose of each specific review is to be assured that each site or project is so developed as to produce the greatest degree of desegregation possible.

*Support Programs*

It is the opinion of this Board of Education that students and staff members called upon to make adaptations to change should be given support and reinforcement. To this end, the Board plans to initiate, within the funds available, a program of compensatory education for certain students. This program, to be initiated during the 1969-70 school year, will be aimed at assisting those pupils who are behind their classmates in academic achievement.

Furthermore, the Board is well aware that an increase in faculty desegregation will require a more extensive program of in-service education aimed at better teacher orientation and adjustment. To meet this need, the Board has instructed the central office staff to look carefully at the resources available for the task, the obstacles to be overcome, and the specific steps to be taken to see that this task is accomplished during the 1969-70 school year. The objectives of such a program would be to (1) create a willingness to study and change one's own behavior and develop the ability to do this more scientifically, (2) improve the teacher's knowledge of the environment, background, and special learning problems of students in a desegregated setting, and (3) improve the teacher's professional competence—subject matter, knowledge, teaching skills, and classroom performance.

*Amendment to Plan for Further Desegregation of Schools**Grouping Of Schools For Student Exchange*

Many schools have experienced significant desegregation moves the past several years. The Board of Education feels that all segments within the school community should share in the tremendous changes encountered in further moves toward desegregation. The Board has sought in the preceding steps to involve large numbers of schools which to this point have been little affected. For the remaining schools which have not been so involved, the Board plans to implement during the 1969-70 school year student exchange programs. Predominantly Negro schools will be paired as matched with predominantly white schools and intensive efforts to produce student contacts through class projects, intramural games, field days, the exchange of students and similar activities will be initiated.

I, William C. Self, Superintendent of the Charlotte-Mecklenburg school system and Secretary to its Board of Education, do hereby certify that the foregoing is a true, perfect and correct copy of the Amendment to the Plan for Further Desegregation of the Mecklenburg School Unit as adopted by the Board of Education on the 22nd day of July, 1969, and spread upon its minutes.

*Amendment to Plan for Further Desegregation of Schools*

This the 29th day of July, 1969.

/s/ WILLIAM C. SELF  
William C. Self  
*Secretary to the Board*

Respectfully submitted,

/s/ BROCK BARKLEY  
Brock Barkley  
Law Building  
Charlotte, North Carolina

/s/ WILLIAM J. WAGGONER  
William J. Waggoner  
1100 Barringer Office Tower  
Charlotte, North Carolina

*Attorneys for Defendant,  
Charlotte-Mecklenburg  
Board of Education*



**Report in Connection With Amendment to Plan  
for Further Desegregation**

(Filed August 4, 1969)

On July 29, 1969, the Charlotte-Mecklenburg Board of Education submitted its amendment to plan for further desegregation of the schools of the Charlotte-Mecklenburg School Administrative Unit as approved by the Board of Education by official action on July 22, 1969.

The following information is submitted for the information of the Court in consideration of the plan.

Following entry of the order of the Court on June 20, 1969, the Board met, reviewed the order and appointed a subcommittee of five members to investigate, prepare and recommend to the full Board a possible plan for further desegregation of the schools served by the system. The committee met on frequent occasions and several of its members, along with staff members, traveled to Syracuse and Buffalo, New York, to review desegregation procedures employed by those systems. All plans of desegregation submitted in reported cases subsequent to the New Kent County decision were reviewed in search of ideas for possible further desegregation within the system. The staff independently and in conjunction with the committee held numerous meetings and explored various alternatives. Subsequently, on July 22, the committee made its formal recommendation to the Board. The Board of Education adopted the recommendation for amendment to its plan for further desegregation of the schools in the system which was filed herein.

The Board of Education expected to file the plan of desegregation and this report contemporaneously and selected the target date of July 29 for the filing date. By

*Report in Connection With Amendment to Plan for  
Further Desegregation*

reason of difficulty in correlating statistical information, it was determined that the plan of desegregation should be filed as scheduled to prevent further public speculation concerning its contents and that the report should be filed as soon as the information was reasonably available. Accordingly, this report is submitted for the information of the Court for consideration in conjunction with the plan of desegregation.

It is most important that at all times the plan of desegregation be considered in light of the policy statement which commits the Board to a course of desegregation to be accomplished at the earliest possible date.

Admittedly, the first two provisions of the amendment to the plan are interim measures to be utilized during the 1969-1970 school term. In the past, and with Court approval, the Board of Education has closed a substantial number of schools and consistent with its policy of phasing out obsolete schools, the plan provides for closing five elementary schools, one junior high and one senior high school. All students will be reassigned for one school term pending development of a comprehensive restructuring of attendance lines and review of the construction program, which should result in substantial further desegregation.

A similar situation will exist with reference to transfers from overcrowded schools. On restructuring attendance zones, the overcrowding should be remedied for the school term beginning 1970-1971.

The factual data concerning desegregation in the schools for the year 1969-1970 discloses that 13,000 Negro students out of 24,843 will be assigned to schools in which the white student enrollment is ten per cent or more, which percentage was acknowledged by plaintiff's experts to constitute

*Report in Connection With Amendment to Plan for  
Further Desegregation*

a desegregated school. Thus, a predominance of the Negro students in the system will be assigned to desegregated schools this year. At this point, the Board cannot specify the number of students or parents who may object to assignment outside of their former attendance area. Exhibit "A" relating to projected racial composition of pupils and faculty for statistical purposes assumes complete acceptance of reassignment. It is hoped the communities affected will respond in such manner as to assure success of this interim measure.

Prior to reaching the decision to transfer Negro students from their neighborhoods on a temporary basis, the Board of Education found from studies of the school systems in Syracuse and Buffalo, New York, one-way bussing of Negroes was generally acceptable to all segments of those communities.

With reference to transportation of students from closed schools including the junior and senior high schools, Page 2 of the Plan provides: "Transportation will be provided pupils who are reassigned." Students formerly attending Irwin Avenue Junior High and Metropolitan Senior High will be advised prior to the opening of schools of the assembly points for transportation to their new assignment.

At the prior hearing in this matter, the Board of Education advised the Court that transfers from majority to minority racial situations amounts to 332 students, all of whom are black. By reason of the closing of schools, this number will be reduced to 227 as 105 students, though attending the school of their choice, will not be leaving a school in which their race is in the minority by reason of reassignment. Nevertheless, transportation will be furnished for the 105 students.

*Report in Connection With Amendment to Plan for  
Further Desegregation*

Attached marked Exhibit "B" is a summary of the actions taken with respect to free choice of transfer requests processed during the period expiring June 15, 1969. Assignment will be made in conformity with the requests granted.

In its order of June 20, 1969, the Court disapproved the provision of the plan relating to disqualification of athletes on transferring from one school to another. The notice attached as Exhibit "C" will be distributed to all coaches at senior high schools for distribution to all junior and senior varsity athletes. To assure that all freshman athletes entering high school will receive notice, junior high school coaches will distribute the notice to all former ninth grade junior and senior varsity athletes. Attempts will be made to obtain newspaper publicity.

The most significant of the provisions of the Plan relates to the restructuring of attendance lines. The Board's policy in the past has been to establish school lines on a non-racial basis. It is most significant that the Board will undertake to restructure attendance lines for the purpose of achieving further pupil desegregation. Restructuring of attendance lines coupled with a revision of the policy on building schools to promote desegregation should offer the most beneficial and least disruptive method for achieving further desegregation and indeed may offer the best long range solution to the problem.

As an aid in restructuring attendance lines, the Board will utilize a new concept in desegregation. A computer assisted systems analysis approach was suggested to the Board by an interested citizen. He presented a manually prepared illustration which admittedly did not consider all

*Report in Connection With Amendment to Plan for  
Further Desegregation*

of the options available to a computer. However, it indicates that dramatic changes in racial composition of many schools may be achieved.

The Board recognizes that the systems analysis approach is merely one of the aids to assist in restructuring of school attendance lines. However, it will provide extremely helpful information in conforming school lines to natural boundaries which will promote further desegregation. It is expected that this approach will provide even more dramatic desegregation in junior and senior high schools which have larger attendance areas.

Attached marked Exhibit "D", the Court will find the revised building construction program dated July 30, 1969, which reflects the latest revision of this program and is based upon the same criteria employed in formulating prior programs. Attention is called to the fact that it does not reflect any implementation of the Board's new policy of promoting further desegregation. Upon approval of the plan, immediate review of the entire construction program will be initiated to promote the stated Board policy.

Attached marked Exhibit "E" is a copy of the statement made by Dr. Self in making presentation of this plan to the news media.

With reference to faculty desegregation, substantial changes have been made as indicated on Exhibit "A". With few exceptions, schools having black or nearly all black students have white faculties ranging from 40 to 50 per cent of the faculty of such schools. All other schools have significant desegregation. By the school term 1970-1971, further faculty desegregation will be experienced. With respect to the seven closed schools, all members of the

*Report in Connection With Amendment to Plan for  
Further Desegregation*

teaching faculty have been reassigned within the school system. Three of the principals of the closed schools will move to new principalships, two of which will be in predominantly white schools. Four of the principals have been assigned to positions which have equal or greater responsibility on the central staff of the school system. Attached marked Exhibit "F" reflects the new assignments of such principals.

This the 4th day of August, 1969.

Respectfully submitted,

/s/ BROCK BARKLEY  
Brock Barkley  
Law Building  
Charlotte, North Carolina

/s/ WILLIAM J. WAGGONER  
William J. Waggoner  
1100 Barringer Office Tower  
Charlotte, North Carolina  
*Attorneys for Defendant*

497a

*Report in Connection With Amendment to Plan for  
Further Desegregation*

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

Dr. William C. Self, of lawful age, being first duly sworn, on his oath states that he is the Superintendent of Defendant named in the above and foregoing matter and that the facts stated herein are true according to his best knowledge and belief.

/s/ WILLIAM C. SELF  
Dr. William C. Self

Sworn and subscribed to before me  
this 4th day of August, 1969.

/s/ FAYE JALLEY  
Notary Public

My commission expires: 3-27-71

**The Charlotte-Mecklenburg Schools**  
**COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE**  
**October 1, 1968-69 and 1969-70 (Estimated)**

School	Pupils						Staff					
	1968-69			1969-70, Est.			1968-69			1969-70, Est.		
Elementary	B	%	W	B	%	W	B	%	W	B	%	W
	B (other)			B (other)			B (other)			B (other)		
Albemarle Rd.	4	1%	499	153	10%	502	6	3%	13	6	30%	14
Alexander Street	257	100%		Closed			11	100%		Closed		
Allenbrook	50	10%	452	55	11%	465	2	10%	18	5	24%	18
Ashley Park		0%	553	*75	12%	575	2	9%	20	6	23%	20
Bain	25	3%	699	25	3%	735	1	3%	28	5	19%	29
Barringer	668	9%	131	500	90%	55	13	43%	18	14	44%	18
Berryhill	119	15%	605	100	12%	715	2	6%	32	6	18%	27
Bethune	223	9%	3	Closed			11	100%		Closed		
Beverly Woods		0%	286	*75	12%	550	1	3%	12	6	21%	18
Billingsville	619	100%	2	605	100%		25	100%		15	60%	10
Briarwood	8	1%	640	*55	9%	665	3	12%	22	6	21%	22
Bruns	740	97%	4	793	100%	2	26	93%	2	21	90%	2
Chantilly	2	0%	491	*42	8%	503	1	5%	21	4	19%	17
Clear Creek	58	20%	225	60	19%	260	1	8%	12	3	23%	10
Collinswood	72	13%	490	70	12%	510	1	5%	21	4	17%	19
Cornelius	239	4%	252	230	48%	250	7	33%	14	5	26%	14
Cotswold	11	2%	567	*75	12%	515	1	5%	21	4	19%	18
Davidson	101	35%	186	100	36%	190	1	3%	11	2	15%	11
Marie Davis	705	100%		695	100%		29	100%		14	50%	14
Derita	165	18%	728	140	16%	720	3	9%	32	6	19%	29
Devonshire		0%	889	*110	11%	935	4	10%	37	7	19%	34
Dilworth	223	37%	355	225	43%	295	4	15%	22	6	24%	19
Double Oaks	800	100%		700	100%		32	100%		19	61%	12
Druid Hills	504	94%	3	512	99%	3	20	100%		12	60%	8
Eastover	49	9%	580	50	8%	570	1	4%	24	4	16%	21
Elizabeth	270	5%	194	310	67%	150	2	9%	21	4	19%	17
Enderly Park	2	1%	374	*57	13%	292	1	6%	15	3	17%	13
Fairview	363	100%		Closed			19	100%		Closed		
First Ward	749	100%		825	100%		30	100%		16	52%	19
Hickory Grove	80	13%	531	80	14%	505	1	4%	23	4	19%	19

Does not include staff assigned to more than one school per HEW report.  
 % N is nearest whole per cent that N is of total.

\* In 1969-70 as increased by schools which are closed

\* During 1969-70 as increased to relieve overcrowded schools (which are underlined)



499a

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RATE  
(Continued)

School	Pupils						Staff					
	1968-69			1969-70, Est.			1968-69			1969-70, Est.		
Elementary	B	%	W	B	%	W	B	%	W	B	%	W
	B (other)			B (other)			B (other)			B (other)		
Aden Valley		0%	977	*140	12%	1025	2	5%	35	7	17%	34
Alhland	47	13%	324	70	19%	305	1	7%	14	2	13%	14
Askins	18	6%	261	25	10%	235	2	15%	11	2	17%	10
Atersville	162	21%	560	165	23%	560	2	7%	25	5	19%	22
Atingtowne Farms	7	1%	695	*67	10%	573	1	4%	26	5	17%	21
Bewild	2	0%	521	*52	14%	573	1	4%	22	6	23%	20
By James	477	100%	1	300	100%		19	100%		13	65%	7
Devew	269	65%	147	345	84%	65	14	71%	5	12	60%	8
Edowne		0%	758	*75	9%	770	1	3%	30	6	18%	27
Edcoln Heights	817	100%	2	625	100%		30	100%		16	55%	13
Eng Creek	250	35%	466	258	35%	470	2	7%	26	5	18%	23
Enthens	93	11%	742	95	11%	765	1	3%	32	6	17%	26
Erry Oaks		0%	469	*45	7%	460	1	5%	19	4	17%	17
Evood	1	0%	522	*65	11%	505	2	7%	21	4	17%	19
Etclair		0%	722	*55	10%	730	1	4%	27	5	18%	23
Esers Park	23	4%	543	*70	13%	435	1	4%	23	4	17%	19
Esions Ford	63	10%	585	65	9%	660	1	4%	25	5	17%	22
Esell	73	15%	423	60	11%	435	1	5%	18	4	20%	16
Esdale	72	13%	480	70	12%	505	1	5%	21	4	17%	17
Eshurst	2	0%	615	*53	8%	647	1	4%	23	4	16%	21
Esblawn	650	100%		.57%	10%		25	93%	2	11	48%	12
Es Providence	102	1%	434	*100	16%	535	1	6%	17	6	24%	19
Esrk Road		0%	551	*60	10%	540	1	5%	21	7	30%	16
Es Creek	63	11%	861	.43	6%	707	1	3%	31	6	13%	28
Esheville	168	32%	363	170	31%	330	1	5%	21	4	17%	19
Esnewood		0%	707	*120	14%	735	1	4%	26	5	19%	22
Esza Road	99	17%	409	115	23%	375	1	5%	21	4	19%	17
Esna Road	2	0%	777	*32	9%	791	2	7%	27	5	17%	24
Esyefield	7	1%	545	*70	11%	570	2	9%	20	4	13%	18
Eslyn	5	1%	598	*78	11%	617	1	4%	22	5	19%	21
Esamrock Gardens		0%	539	*60	10%	535	1	5%	20	6	25%	18
Esaron		0%	519	*90	18%	410	1	5%	20	5	24%	16
Esarmount	25	3%	713	*95	11%	775	1	3%	28	5	16%	26
Esatesville Road	295	36%	534	300	36%	525	3	9%	29	6	19%	25
Esle Creek	12	2%	531	*80	13%	550	1	5%	20	4	18%	18

Es Griefs Griefs

15 6% 130

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
(Continued)

School	Pupils						Staff					
	1968-69			1969-70, Est.			1968-69			1969-70, Est.		
Elementary	B	%	W	B	%	W	B	%	W	B	%	W
	B (other)			B (other)			B (other)			B (other)		
Thomasboro		0%	705	*140	17%	690	2	7%	25	5	1%	20
Tryon Hills	241	50%	245	240	51%	230	1	5%	20	3	14%	16
Tuckasee Joe	61	10%	553	60	10%	540	1	4%	23	4	17%	19
University Park	777	100%		610	100%		30	97%	1	21	92%	
Zeb Vance	257	100%		Closed			11	100%		Closed		
Villa Heights	796	100%	126	650	92%	60	23	61%	14	21	55%	17
Westerly Hills		0%	569	*75	12%	570	1	4%	22	5	17%	22
Wilmore	145	33%	293	200	43%	265	8	40%	12	10	43%	13
Windsor Park		20%	737	*77	9%	768	1	4%	27	6	18%	27
Winterfield		0%	689	*75	9%	715	1	4%	26	6	14%	25
Isabelle Wyche	222	100%		Closed			12	100%		Closed		
Child Development (Rt. 2 Lines)												
Dorchester, 31		35%	117	60	40%	120	3	30%	7	3	30%	7
Farmville, 32	166	92%	37	165	93%	35	2	20%	8	0	90%	2
Seversville, 43	174	87%	26	176	89%	24	3	80%	2	7	70%	3
Morgan, 34	193	97%	6	190	95%	10	8	80%	2	2	20%	0
Total												
Elementary	13,930	30%		14,183	31%		501	27%		510	27%	
		31,816			31,991			1356			1330	

# COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE (Continued)

	Pupils						Staff					
	1968-69			1969-70, Est.			1968-69			1969-70, Est.		
	B	%	W	B	%	W	B	%	W	B	%	W
	B (other)			B (other)			B (other)			B (other)		
Junior High												
Beaverville Road	60	1%	261	60	6%	960	4	9%	43	7	17%	35
Alexander	347	3%	755	375	33%	775	6	12%	44	7	16%	42
Threene	765	1%	1444	75	5%	1495	6	10%	55	11	17%	53
Alwood	119	1%	727	110	12%	785	4	11%	34	6	17%	50
Way	301	1%	1364	*183	12%	1357	3	5%	55	11	17%	52
Ex. Graham	51%	10%	4	*145	12%	1045	4	9%	43	7	17%	43
Whorne	492	52%	447	535	47%	540	12	27%	33	13	27%	35
Win. Ave.	656	100%		Closed			32	97%	1	Closed		
Clintock	464	122%		*200	13%	1325	2	4%	49	10	16%	52
Northwest	932	100%		1050	100%		39	100%		22	55%	10
Edmont	428	81%	53	430	92%	35	13	52%	12	13	46%	15
Hill Hollow	171	124%	1261	172	12%	1318	3	5%	61	10	16%	53
Dolph	272	24%	711	255	26%	750	2	5%	30	9	20%	35
son	253	30%	546	280	34%	550	6	16%	31	9	24%	27
Edgefield	189	17%	802	200	22%	730	5	11%	39	8	17%	35
ith	0%	13%	9	*90	6%	1470	3	5%	57	9	14%	54
ough	106	1%	71	200	18%	935	6	12%	43	10	22%	36
Illiams	893	100%		850	100%		37	100%		22	56%	17
lson	605	1132		*135	11%	1140	4	8%	45	9	18%	40
ck Rd. (Kenny)	727	97%	6	850	97%	5	32	97%	1	20	55%	16
arring Academy - 7th & 8th grades counted in JH, above,							5	17%	21	4	30%	5
Total												
Junior High	5,934	24%		6,195	29%		228	24%		219	30%	
	14,741			15,215			706			697		

502a

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
(Continued)

School	Pupils						Staff					
	1968-69			1969-70, Est.			1968-69			1969-70, Est.		
	B	%	W	B	%	W	B	%	W	B	%	W
	B (other)			B (other)			B (other)			B (other)		
West Mecklenburg	155	17%	739	* 330	14%	2050	6	9%	25	17	16%	22
Garinger	202	7%	2157	* 335	13%	2265	6	6%	102	20	17%	59
Harding	169	17%	814	* 450	3%	800	4	4%	49	10	14%	54
Independence	92	9%	962	115	10%	1035	6	9%	59	12	18%	55
Myers Park	158	1%	1855	* 345	1%	1765	6	6%	37	17	17%	34
North Mecklenburg	410	2%	1109	490	3%	1170	6	9%	63	13	17%	64
Olympic	259	33%	522	320	38%	520	5	11%	39	10	22%	35
Second Ward	1139	100%	3	Closed			57	95%	3	Closed		
South Mecklenburg	106	6%	1112	* 260	11%	2055	4	5%	72	17	17%	45
West Charlotte	1569	100%		* 1650	100%		74	93%	6	55	66%	25
West Mecklenburg	118	8%	1340	160	10%	1415	4	5%	73	14	17%	6
Total												
Senior High	4,377	26%		4,465	25%		178	22%		219	24%	
	12,313			13,075			644			697		

CORRECTED JULY 28, 1961

## CHARLOTTE-MECKLENBURG JUNIOR HIGH SCHOOLS

	Enroll- ment	Requests to enter transferred	Requests to leave	Net change	Back to original assg.	Granted as 2nd choice	Summary July 1	Final Summary
CHARLE ROAD	1032	0	10	-10	7	0	-3	1029
ANDER	1174	0	20	-20	4	0	-16	1158
ANE	1566	0	2	-2	1	0	-1	1565
OOD	869	24	10	+14	4	10	+28	897
AY	1353	0	4	-4	5	0	+1	1354
ANDER GRAHAM	991	55	2	+53	0	8	+61	1052
ORNE	1079	16	126	-110	103	3	-4	1075
AVENUE	619	14	27	-13	0	0	-13	606
T F. KENNEDY	932	21	111	-90	15	0	-75	857
NTOCK	1320	0	9	-9	4	0	-5	1315
WEST	1014	32	55	-23	37	1	+15	1059
ONT	501	15	59	-44	9	0	-35	466
HOLLOW	1476	7	9	-2	4	2	+4	1480
LPH	996	14	58	-44	27	12	-5	971
N	823	0	3	-3	2	0	-1	822
FIELD	910	30	93	-13	0	0	-13	921
	1452	21	7	+14	3	0	+17	1469
	1089	49	29	+20	9	26	+55	1144
ANIS	855	15	32	-17	9	3	-5	850
N	1204	0	5	-5	0	0	-5	1199
ING ACADEMY								

Schools closed out for transfer requests:

Code: \* - All Requests

\*\* - Regular Requests

## CHARLOTTE-MECKLENBURG SENIOR HIGH SCHOOLS

	1967 1968 1969	Requests for leave 1967 1968 1969	Requests for leave 1967 1968 1969	Requests for leave 1967 1968 1969	Requests for leave 1967 1968 1969	Requests for leave 1967 1968 1969	Requests for leave 1967 1968 1969	Summary July 1	1967 1968 1969
EAST MECKLENBURG	2657	41	32	19	16	2	127		211
GARINGER	2648	37	62	-25	5	0	-20		2531
HARDING	994	132	24	+108	3	2	+113		1107
INDEPENDENCE	1121	25	6	119	1	2	+22		1143
METROPOLITAN	956	29	127	-100	2	0	-98		858
MYERS PARK	1914	23	34	-11	5	0	-6		1908
NORTH MECKLENBURG	1618	20	26	-6	6	0	0		1618
OLYMPIC	899	38	31	+7	4	3	+14		863
SOUTH MECKLENBURG	2152	3	24	-21	9	0	-12		2140
WEST CHARLOTTE	1518	44	103	-59	0	2	-57		1461
WEST MECKLENBURG	1572	22	21	+2	0	1	+3		1575

## CHARLOTTE-MECKLENBURG ELEMENTARY SCHOOLS

	Enroll- ment	Requests to enter granted	Requests to leave	Net change	Back to original assg.	Granted as 2nd choice	Summary July 1	Final summary
Marle Road	506	11	14	-3	0	2	-1	505
ander Street	141	37	3	+34	0	0	+34	175
ntbrook	513	12	3	+9	0	0	+9	522
ey Park	522	37	4	+33	0	1	+34	556
	768	0	6	-6	0	0	-6	762
ringer	870	0	34	-34	3	0	-31	839
ryhill	776	14	4	+10	3	1	+14	790
une	166	0	4	-4	0	0	-4	162
erly Woods	546	15	10	+5	0	0	+5	551
lingsville	617	0	16	-16	0	0	-16	601
arwood	799	0	7	-7	2	0	-5	794
ns Avenue	800	2	5	-3	0	0	-3	797
ntilly	449	11	4	+7	0	0	+7	456
ar-Creek	304	0	3	-3	0	0	-3	301
linswood	554	7	7	0	0	0	0	554
melius	462	9	7	-4	2	0	-2	460
swold	532	29	4	+25	0	0	+25	557
idson	289	2	0	+2	0	0	+2	291
ie Davis	679	17	2	+15	2	0	+17	696
ita	836	12	8	+4	7	2	+13	849
onshire	902	0	7	-7	3	0	-4	898
orth	500	5	22	-17	0	0	-17	483
le Oaks	802	6	6	0	0	0	0	802
d Hills	518	5	8	-3	0	0	-3	515

Schools closed out for transfer requests:

Code: \* - All Requests

\*\* - Regular Requests

	Enrollment	Requests to enter grant	Requests to leave	506a Net change	Back to original assignment	Granted as 2nd choice	Summary July 1
Eastover	610	11	13	-2	0	0	-2
Elizabeth	515	14	73	-59	1	0	-58
Enderly Park	388	22	9	+13	0	0	+13
Fairview	321	4	1	+3	0	0	+3
First Ward	821	5	0	15	0	0	+5
Hickory Grove	579	0	4	-4	1	0	-3
Hidden Valley	1005	0	1	-1	2	0	+1
Highland	367	4	4	0	0	0	0
Hoskins	263	2	20	-18	0	0	-18
Huntersville	684	11	2	+9	0	0	+9
Huntingtowne Farms	557	5	4	+1	0	0	+1
Idlewild	650	9	12	-3	0	0	-3
*Amey James	544	0	24	-24	2	0	-22
Lakeview	476	1	21	-20	0	0	-20
Lansdowne	737	11	3	+8	1	1	+10
Lincoln Heights	704	4	12	-8	3	1	-4
*Long Creek	736	0	31	-31	5	0	-26
Matthews	457	7	6	+1	0	0	+1
Merry Oaks	445	2	10	-8	0	0	-8
Midwood	485	14	13	+1	4	0	+5
Montclair	718	13	4	+9	1	5	+15
Myers Park	490	14	9	+5	0	0	+5
Nations Ford	713	14	10	+4	3	0	+7
Newell	553	3	16	-13	2	3	-8

Schools closed out for transfer requests:

Code: \*- All Requests

\*\* Regular Requests



	Enrollment	Requests to enter grade:	Requests to leave	507a Net Change	Back to original assignment	Granted as 2nd choice	Excess July 21	Final Excess
dale	543	29	2	+27	2	0	+29	572
hurst	591	12	7	+5	3	0	+8	599
lawn	574	2	13	-11	2	0	-9	565
e Providence	482	5	2	+3	0	0	+3	485
k Road	530	16	9	+7	0	1	+8	538
Creek	930	0	4	-4	0	0	-4	926
eville	547	1	8	-7	0	0	-7	540
ewood	714	4	11	-7	0	0	-7	707
za Road	490	9	20	-11	5	1	-5	485
a Road	737	0	2	-2	0	0	-2	737
gefield	542	3	7	-4	0	0	-4	538
wyn	581	19	2	+17	0	0	+17	598
anrock Gardens	495	27	7	+20	3	0	+23	518
ron	387	8	33	-25	0	0	-25	362
rmount	743	2	3	-1	0	0	-1	742
tesville Road	825	7	12	-5	2	0	-3	822
ele Creek	534	0	10	-10	0	0	-10	524
masboro	681	17	21	-4	0	1	-3	678
on Hills	482	5	21	-16	2	0	-14	468
kaseegee	594	9	2	+7	1	0	+8	602
iversity Park	751	11	4	+7	0	0	+7	758
Vance	227	0	2	-2	0	0	-2	225
la Heights	738	0	16	-16	0	0	-16	722
terly Hills	527	0	9	-9	2	0	-7	520
imore	603	4	16	-12	0	0	-12	591
ndson Park	799	13	8	+5	1	0	+6	805

Schools closed out for transfer requests:

Code: \* - All Requests      \*\* - Regular Requests

	Enrollment	Requests to enter Grades	Requests to leave	508a Net change	Back to original assignment	Granted as 2nd choice	Summary July 1	Final Summary
Winterfield	702	25	5	+20	0	0	+20	72
Isabella Wyche	197	0	4	-4	0	0	-4	193
Davidson C.D.C.								
Morgan C.D.C.								
Pineville C.D.C.								
Sevensville C.D.C.								

CHARLOTTE-HECKLENBURG SCHOOLS  
CHARLOTTE, N. C.

August 4, 1969

NOTICE TO ALL STUDENTS PARTICIPATING IN HIGH SCHOOL ATHLETICS

Under the revised pupil assignment guidelines adopted by the Board of Education, that section dealing with varsity athletics which requires a student exercising freedom of choice to lose his eligibility to participate in varsity or junior varsity athletics during his first year at the school of assignment is revoked. Under the new provisions a student who exercises freedom of choice will be eligible to participate in varsity or junior varsity athletics immediately upon enrollment at the school to which he is assigned. In the case there was a student who did not exercise freedom of choice last spring because of this reason, he may now do so by contacting the principal of the school where he has been assigned.

PROJECT STATUS REPORT

March 5, 1968  
 Revised June 27, 1968  
 Revised Nov. 11, 1968  
 Revised Jan. 27, 1969  
 Revised July 30, 1969

**Charlotte-Mecklenburg Schools**  
**Five-Year Construction Program (1967-72)**

1. There are 91 building projects to be undertaken in the 1967 bonds.
2. At the present time these projects may be divided into stages as follows:

A. Projects completed	\$ 8,805,000
B. Projects under construction	7,600,000
C. Projects approved for bidding	3,050,000
D. Projects approved and in the planning stage	3,950,000
E. Projects approved by Board	4,600,000
F. Projects approved by staff	2,865,000
G. Projects not yet acted upon	4,800,000
	<u>\$35,670,000</u>

\$ 8,905,000A. Projects completed

1. Huntingtowne Farms
2. Hidden Valley
3. First Ward
4. Starmount
5. Quail Hollow Jr.
6. Pineville
7. Olde Providence
8. Albemarle Road Elem.
9. Steele Creek
10. Bruns Avenue
11. Alexander Jr.
12. Idlewild
13. Collinswood
14. Corhrane Jr.
15. Huntersville
16. Lansdowne
17. Chantilly
18. Westerly Hills
19. Beverly Woods
20. Statesville Road

**B. Projects under construction****\$ 7,600,000**

1. Northwest Jr.
2. Independence Sr. Hf.
3. Matthews
4. Smith Jr.
5. East Mecklenburg
6. Bain
7. Tryon Hills
8. Allenbrook
9. Harding
10. Long Creek
11. Clear Creek
12. Hawthorne
13. Project 600
14. Enderly Park
15. Wilson Jr.

C. Projects approved for bidding\$ 3,050,000

1. Myers Park Sr.
2. Coulwood
3. Amay James
4. Barringer
5. Hickory Grove
6. Ranson Jr.
7. Albemarle Rd. Jr.
8. North Hecklenburg
9. South Hecklenburg

D. Projects approved and in planning stages\$ 3,950,000ElementaryJuniorSenior

1. Center City \*

1. Alex. Graham

1. Metropolitan

2. Spaugh

\* Hold action

Totals

\$ 750,000\$ 1,200,000\$ 2,000,000



E. Projects approved by Board\$ 4,600,000

1. Lincoln Heights
2. University Park
3. Villa Heights
4. Highland
5. Fairview \*
6. Moores Chapel
7. Allen Hills
8. Wilora Lake

\* Hold action

F. Projects approved by staff\$ 2,865,000ElementaryJunior

1. Lakeview
2. Druid Hills
3. Briarwood
4. Billingsville
5. Shamrock Gardens
6. Marie Davis
7. Cotswold
8. Ashley Park
9. Sedgefield
10. Nations Ford
11. Montclair
12. Pinewood
13. Tuckaseegee
14. Oakhurst
15. Merry Oaks

1. Sedgefield
2. McClintock

Total

\$ 2,065,000\$ 800,000

6. Projects not yet acted upon\$ 4,000,000Elementary

1. Paw Creek
2. Cornelius
3. Hewell
4. Derita
5. Berryhill
6. Midwood
7. Wilmore
8. Elizabeth
9. Eastover
10. Myers Park
11. Davidson
12. Thomastown
13. Park Road
14. Selwyn

\* Hold action

\$ 3,350,000Junior

1. York Road
2. Irwin Avenue \*
3. Piedmont
4. J. H. Gunn

Total - \$ 1,450,000

*Exhibits Attached to Foregoing Report, Etc.*

The Charlotte-Mecklenburg Board of Education is about to file its plan for further desegregation of the School System. The Board is aware of the tremendous impact which this action promises to have on the community. Board members also know that the matter of how the plan is received is, in large measure, dependent upon how well it is understood by the community. It is imperative, therefore, that the community know the plan and its implications. The Board knows of no way to engender support for an idea superior to the simple act of "telling it like it is." It is in this spirit that these words are offered in answer to three questions in the minds of responsible Charlotte-Mecklenburg citizens as this time. They are:

- I. What does the plan seek to do?
- II. What are the implications of the plan?
- III. What will it take to make the plan work?

Speaking to the first question, "What does the plan seek to do?"

1. The first part of the plan is most significant for in this section the Board states a policy regarding desegregation. The policy statement begins by reasserting an old belief that every individual should have equal opportunity to develop his capabilities to the fullest. It affirms the long held principle that equality of educational opportunities should be without regard to socio-economic, ethnic, religious, or racial differences. It states that equality of educational opportunity can best be provided by attempting to negate the burdens and handicaps imposed upon people by varied circumstances, backgrounds, and environmental differences. And then the Board makes a very

*Exhibits Attached to Foregoing Report, Etc.*

important statement which I quote, "In this light, the Board of Education firmly believes further desegregation of students and professional staff will contribute to the educational and social development of all children." Finally, the Board commits itself to a course of action by stating that "the desegregation of students should be coordinated with desegregation of teachers, principals and staff members and that the desegregation should be accomplished at the earliest possible date." Next, the plan outlines the steps which are to be taken to achieve this goal.

First, the Board proposes to close several schools and reassign the students (parents permitting) to other schools in the system so as to achieve the twin purposes of better educational offering for those reassigned and further desegregation for the system.

Next, the plan proposes to draw off from overcrowded all or predominantly Negro schools a number of students and reassigning them to other schools presently experiencing minimal desegregation.

Third, with the help of local experts skilled in the art of systems analysis, the Board proposes to begin an extensive study of attendance areas. The purpose of this study would be to determine whether or not alteration of certain attendance areas would result in more desegregation.

The Board proposes to undertake an extensive study of the school system's construction program to determine the effect of planned new construction on the racial composition of the schools. The Board plans to coordinate this study with other groups within the city which have a share of this responsibility.

*Exhibits Attached to Foregoing Report, Etc.*

The Board plans to initiate certain programs which would give support and reinforcement to students and teachers called upon to make adaptations to change. The aid to pupils will be through a compensatory education program. Teachers will have support through an orientation and in-service education program whose objectives will be to improve the teachers' knowledge of the environmental background and special learning problems of students in a desegregated setting.

Lastly, the Board of Education feels that the burden of this problem should be shared by all sections of the school community. To accomplish this purpose, the Board has asked the staff to explore the possibilities of student exchange programs, school pairing, and other techniques aimed at involving those schools in the system which, at this point, have had only minimal contact with members of the opposite race.

Now to the second question, "What are the implications of the plan?"

This question could be approached from several different directions. Let's approach it statistically first. Seven center city schools will be closed and approximately 3000 students will be reassigned. This is not the first round of school closings. Up to this point, 16 other schools in the city and county have been closed. By and large these schools served a dual school system. They are ill-adapted to a unitary school organization. As a group they are old to the point of being obsolete. Bethune, for example, is 57 years old. While the youngest, Irwin Avenue, is 34. They stand on small sites which someone in the past managed to wrestle away from a growing city—1.17 acres at Isabella Wyche, 2.30 acres at Bethune, 7.26 acres at

*Exhibits Attached to Foregoing Report, Etc.*

Second Ward, etc. Their combined enrollment has dwindled sharply from 4442 in 1965 to less than 3000 projected for this fall—a 33½% loss in four years. Certainly the closing of these schools can be defended administratively.

But what are the implications of the plan from the standpoint of the cost? The Board intends to offer the transferred students transportation. This will cost money both to buy the equipment and to operate this equipment. The Business Service Department estimates that we would need to spend an additional \$98,000 for the extra vehicles needed and that the operating cost would be about \$30 per pupil or about \$90,000. By comparison, commercial transportation costs are estimated at \$45 per pupil or \$135,000 for the year. A maximum estimate of transportation cost for the 3000 pupils from the seven closed schools using our own department would be about \$188,000.

It is estimated that 39 additional relocatable classrooms would be needed to increase the capacity of the receiving schools. The cost of purchasing and equipping these units is estimated at \$330,000. Delivery on these units will take 6 to 8 weeks. The first 5 to 10 units could be in operation by the middle of September and we might expect a one per day delivery rate from that point.

There are, however, some figures which might be examined on the other side of the ledger. The \$383,000 slated for purchase of a few additional acres for the Metropolitan High School site could be used for other purposes. The \$100,000 used to add to the Zeb Vance property could be reclaimed through sale. Bond monies tentatively allocated to some of these schools could be restudied. Much of the property could be declared surplus and sold.

But the question, "What are the implications of the plan?" could be approached from still another point of view—the student's and the school program.

*Exhibits Attached to Foregoing Report, Etc.*

The students who are being moved from center city schools will have some adjustment problems. The system is proposing to help them make this adjustment. The students in the receiving schools will find some adjustments necessary. Again, every effort will be made to help make this transition a smooth one.

The students from the center city have generally been achieving below the students in the receiving schools. This move will make it possible to attack the problem. Nevertheless, we should not expect a dramatic improvement in achievement during the first year. Some improvement will be registered but the main effect will take place over a period of years. On the other hand, the achievement of youngsters in the receiving schools will not be adversely affected. There is ample evidence that this does not occur in spite of the fears on the part of some that this might happen.

The PTA's and school committees in the receiving school will need to make plans to incorporate new parents in their activities and programs else the very objectives of any move toward desegregation will be lost.

Finally, the net result of this move will be to place some 3000 youngsters from closed schools and 1200 youngsters from overcrowded schools in learning environments where their chances for success will be greatly enhanced.

And now, finally, let's consider the important question, "What will it take to make the plan work?"

Certainly, it will take commitment to action by the Board of Education—united action, if possible—action by a democratic majority, if necessary. But the community must know that the Board is willing to lead the way. I feel events of the past month demonstrate that the Board is ready to do this.



*Exhibits Attached to Foregoing Report, Etc.*

Commitment on the part of the Board must be matched by commitment on the part of the professional staff. I am convinced by the tremendous support offered by principals and central office staff members and by the very favorable progress we have made in faculty desegregation that the commitment is there.

Certainly, the plan will have a better chance of success if it is generally accepted by those who are directly affected. Parents of students who are involved must see in this plan a better educational opportunity for their child.

In order for this plan to succeed there must be an outreach on the part of the receiving school. This must be more than a casual letter of greeting. Vital programs must be developed which will at one and the same time demonstrate true concern and insure incoming students and parents that they will not be regarded as outsiders but will have a place in the school's life and program.

Finally, in order for the plan to succeed there must be a commitment on the part of the community as a whole. The policy adopted by the Board of Education must be adopted by the community and by certain agencies and forces within the community. The majority of the people must truly believe that it is in the best interest of a democratic society to afford equal opportunities to all people regardless of race, creed, color or economic circumstances.

*Exhibits Attached to Foregoing Report, Etc.*

Approved

7-31-69

**PROPOSED ADMINISTRATIVE CHANGES**

	<b>From</b>	<b>To</b>
<b>E. E. Waddell</b>	<b>Prin.-Second Ward</b>	<b>Asst. to Superintendent</b>
<b>Gerson Stroud</b>	<b>Prin.-Kennedy</b>	<b>Prin.-P-600*</b>
<b>Asaac Graham</b>	<b>Prin.-Irwin Ave.</b>	<b>Prin.-Kennedy</b>
<b>John Kibler</b>	<b>Prin.-Bethune</b>	<b>Prin.-Lakeview</b>
<b>Mrs. Mathilda Spears</b>	<b>Prin.-Zeb Vance</b>	<b>Prin.-Park Road</b>
<b>B. G. Whisnant</b>	<b>Prin.-Elizabeth</b>	<b>Prin.-Hidden Valley</b>
<b>B. D. Roberts</b>	<b>Prin.-Isabella Wyche</b>	<b>Prin.-Elizabeth</b>
<b>O. N. Freeman</b>	<b>Prin.-Lincoln Heights</b>	<b>Adm. Asst.-Personnel</b>
<b>Louis Hughes</b>	<b>Prin.-Alexander Street</b>	<b>Prin.-Lincoln Heights</b>
<b>W. G. Byers</b>	<b>Prin.-Fairview</b>	<b>Adm. Asst.-Elem. Ed.</b>

---

\* Mr. Stroud will serve as Administrative Assistant until such time as the school is completed.

**Transcript of August 5, 1969 Proceedings (Excerpts)****[4] . . .**

DR. WILLIAM C. SELF, a witness for the defendant, having first been duly sworn, was examined and testified as follows:

**[5] *Direct Examination by Mr. Waggoner:***

Q. Dr. Self, you are Superintendent of the Charlotte-Mecklenburg Board of Education? A. I am.

Q. Dr. Self, are you familiar with the order of the Court dated June 20, 1969? A. Yes.

Q. Did the Board of Education meet to review the order of the Court? A. Yes, it did.

Q. What meetings were held by the Board of Education and any committees? A. There was a meeting of the Board of Education a few days after the Court order was issued. As I recall, the major objective of this meeting was to ask the Board attorney to review the Court order. It was discussed thoroughly by the Board of Education at that time. A second meeting of the Board of Education was set, at which time the Board directed the staff to take the plan for desegregation prepared by the plaintiffs, referred to as the Finger plan, and present it to the Board of Education for their study. There was this second meeting, then, following it at which time the staff endeavored as best it could to interpret the Finger plan for desegregation to the Board of Education, using audio-visual slides, overlays, maps, things of this nature. After [6] considerable discussion by that Board of Education at that meeting, it was determined that the Board should attempt to devise a plan for desegregation and they also determined that this work should be assigned to a committee of the Board rather than to the Board as a whole. Five members

*Dr. William C. Self—for Defendant—Direct*

of the Board of Education were appointed to this committee and three staff members worked with the committee. The committee itself held quite a few meetings. The first one that I recall was on July 3. There was another meeting on the 11th, the 19th, the 21st and 22nd. Most of these meetings were for long periods of time, lasting for half a day or thereabouts. Meanwhile, the committee, or at least members of the committee, visited other school systems to see what was going on there and also spent a good bit of time studying other court cases, the objective being to identify for further study some of the approaches used to achieve desegregation.

Q. Which systems did you study? A. We communicated by telephone with several school systems in an attempt to determine whether or not the approaches they were using could say anything to us. In contacts with Buffalo and Syracuse, New York, we did determine that it probably would be worth our while to pay them a visit, an on site visit.

Q. How much time was spent on these visits? A. As I recall, the trip took a little better than two days.

[7] Q. Did this special sub-committee report back to the committee as a whole? A. Yes, it did.

Q. Now, with reference to the plan of desegregation, the first portion deals with the policy statement. Did the Board spend much time on the policy statement? A. I feel the Board spent considerable time on the policy statement.

Q. Does this policy statement reflect any departure from former Board policy? A. Yes, it does.

Q. In what way? A. Well, I believe in the Court order of June 20 one of the findings was that the Board did not acknowledge a responsibility for bringing about the desegregation of schools, saying that children were assigned

*Dr. William C. Self—for Defendant—Direct*

by neighborhoods. In this policy statement the Board does acknowledge that it has a responsibility. I think that the key phrase in the policy statement is the one which is found in the fourth paragraph which says: The Board of Education firmly believes further desegregation of students and professional staff will contribute to the educational and social development of all children. A statement of belief. And then a statement which, at least in my opinion, in a commitment: The Board is further of the belief that desegregation of students should be coordinated with [8] desegregation of teachers, principals and staff members, both of which should be accomplished at the earliest possible date.

Q. Now, the first actual implementation of this policy statement appears to be with reference to closing some seven schools. A. That is correct.

Q. Now, what was the reasoning of the Board for closing these particular schools? A. I feel that there are some administrative reasons. The schools themselves are old to the point of being obsolete. Bethune is the oldest one and it's 57. Irwin Avenue is the youngest and it's 34 years old. All of the schools sit on inadequate sites, sites which could be expanded only at rather sizeable cost. The enrollment of the schools has decreased over the past several years. I believe that statistics show that the enrollment of all of the seven schools combined has decreased by approximately 33 $\frac{1}{3}$ % since 1965.

Q. Now were the schools selected to which these students would be reassigned? A. Some of the schools that were selected had some space but by and large the criteria which was used was to find schools in some of the sections of Charlotte which had experienced up to this particular point minimum desegregation and which had good educational programs into which these youngsters might fit.

*Dr. William C. Self—for Defendant—Direct*

Q. From an educational standpoint is this a desirable move? [9] A. In my opinion, it is.

Q. Why do you feel this is educationally desirable? A. Well, I think from the standpoint of an educator moving youngsters from one geographic area to another has been defended down through history on the basis of improving his educational opportunity. I think that this is the rationale that prevailed in the Mecklenburg County system when Bain and Matthews and Sterling and some of the smaller schools were replaced by larger consolidated schools. Here the movement was from an environment which offered limited educational opportunity to one that offer a greater potential, and I think that the same rationale could be applied here.

Q. Under this plan that's proposed, primarily blacks would be the only ones bused. Why are only blacks bused under this plan? A. Well, the predominant number, of course, would be Negro youngsters. There is one provision that might pick up some youngsters from the disadvantaged neighborhoods who are white and bus them to other areas as well, but I think it's because the blacks are found in this particular area of the disadvantaged.

Q. What is the motivation from an educational standpoint for busing these blacks out of these disadvantaged neighborhoods? A. To provide a better educational opportunity and at that same time accomplish further desegregation of the system.

[10] Q. Will these schools to which they are transferring operate better educational programs? A. I think that for the youngsters who are moved into these schools, the educational opportunities will be enhanced. I certainly do not think that the educational program for the youngsters who are already there will be lessened in any degree.

*Dr. William C. Self—for Defendant—Direct*

Court: Mr. Marshal, it may be that these people in the hall can keep order among themselves if I tell them they will have to close the doors unless the noise from the hall is kept down. Can you people in the back of the hall hear me? We will have to close the doors unless there is less noise in the hall.

Go ahead.

Q. Dr. Self, with reference to the black schools which are being closed, could they be operated for another year? A. Yes, they could be operated another year. I think that you'd have to take into account, again, some of the things which I mentioned, the age of the building, the limited facilities, but yes.

Q. Have most of these schools been on the drawing board for closing out for sometime in the school system? A. Yes. As a part of the thirty-five million dollar construction program it was anticipated that these schools would be [11] abandoned.

Q. Are you familiar with the recommendation of Dr. Finger with reference to these schools? A. I believe I recall his recommendation, yes.

Q. What was his recommendation, if you recall? A. I believe that he recommended closing Zeb Vance, Isabella Wyche, Bethune, Alexander Street. I do not believe he mentioned Fairview but mentioned in its place Elizabeth. The plan did not deal with Irwin Avenue Junior High School. As a matter of fact, I don't think Irwin Avenue was mentioned, and it did not mention Metropolitan High School.

Q. Did Dr. Finger's plan make any specific disposition of the students who formerly attend those schools? A.



*Dr. William C. Self—for Defendant—Direct*

These students were assigned to other schools although I cannot recall exactly what schools.

Q. Now, the next feature of the plan provides for transportation of blacks from overcrowded black schools. On what determination was this provision reached? A. I feel the objective is the same as in the closing of schools, to achieve further desegregation and to afford better educational opportunities for the pupils involved.

Q. Aren't there some white schools that have fairly severe overcrowding? A. Yes. As a matter of fact, our physical facilities as a whole in the school system are overcrowded.

[12] Q. Is it your feeling, then, that the educational advantages of this move outweigh the disadvantages that would be experienced from moving whites to other schools? A. Yes, it is.

Q. Now, the next feature of the plan provides for restructuring of attendance lines. Why hasn't the School Board restructured the attendance lines prior to this time? A. Well, I think that probably the major reason would be that the Board of Education did not adopt a policy on desegregation officially until just several weeks ago. With that policy adopted, it then became necessary for the Board of Education to examine its present method of redrawing attendance lines and respect this matter of desegregation while they did so.

Q. From an administrative standpoint, would it be possible to restructure the school attendance lines for the year 1969-70? A. I do not feel that it would be. I'd have to qualify that by saying that you could take a map and draw a circle around schools, but this would be a very shallow way of treating a very, very difficult problem. I view the drawing of the attendance lines as a mammoth undertaking,



*Dr. William C. Self—for Defendant—Direct*

one which would have to update the statistics of the school system, arrive at some guidelines for drawing the new attendance lines, subject these to numerous review by the Board of Education and, to the degree that it's possible, to the school community, and then interpret this in terms of administrative action.

[13] Q. This is not a job that could be accomplished by one or several people, is this correct? A. I think it might be supervised by one or several people, but many people would be involved in the actual work.

Q. How long would it take to restructure the attendance lines for the school served by the system? A. Well, again, we can only make an estimate. We have estimated it would take six months. I believe that's the wording of the plan.

Q. What is the basis for the six months estimate? How do you reach the six months estimate? A. I think on the basis of knowing how much work there is to be accomplished and on the experience that we have had in terms of drawing attendance lines in the past where new schools were built, additions to schools were completed, that sort of thing.

Q. I understand that the Board of Education proposes using a system analysis approach as an aid to restructuring of attendance lines, is this correct? A. The possibility has been investigated, yes.

Q. Basically what would be involved in this approach? A. Well, my impression is more or less a lay impression because I'm certainly not versed in the field of system analysis. It's a systematic approach where you determine what criteria you're going to use to redraw an attendance line, you look at [14] the data and statistics that are available and you come out with some sort of determination where that line is going to be. I think that the possibility

*Dr. William C. Self—for Defendant—Direct*

of adapting all this to a computer for the purpose of handling the tremendous amount of logistics which would be involved has also been explored.

Q. Have you had an estimate as to how long it would take to do the systems analysis and programming work for a computer printout of the schools? A. I believe that that's where we got the six months, Mr. Waggoner.

Q. Now, there's been a reported plan, called a plan by the press, presented to the Board by a Mr. Weil. Are you familiar with this illustration? A. Yes.

Q. Could this illustration prepared by Mr. Weil be implemented for this fall? A. No, I do not believe it could be.

Q. Why could it not be? A. I'm basing my answer on that more from the standpoint of Mr. Weil's comments than I am on any intimate knowledge of the situation, but I believe he himself indicated that it would take six months to work it through.

Mr. Chambers: Objection.

Court: The objection to what he said would be sustained.

[15] Q. Do you feel that any further substantial degree of desegregation could be accomplished by restructuring of attendance lines? A. Yes.

Q. What criteria would you basically use in restructuring these lines? A. Well, I think that much of the criteria you would use would be the same we have used in the past, the distance from school, major highway arteries, grade levels involved, capacity of the school, things of this nature, and one new criteria, that of achieving a racial mix in the student body would be introduced.

Q. This is a criteria not formerly used, is this correct?

*Dr. William C. Self—for Defendant—Direct*

A. That's correct.

Q. What would be the effect of changing one or two attendance zones for this current year on the proposed total restructuring for next year? A. It would be my opinion that it would produce an uproar on the part of the community that was involved, that we would be immediately charged with singling them out for action and not taking any action as far as the rest of the school system is concerned.

Q. When you restructure a school attendance line, is merely one line involved or does it involve other lines? A. All the lines in the school probably would be involved. Of [16] course, if this is true, you're studying the attendance lines of the neighboring schools as well.

Q. Now, there's been some discussion and testimony concerning pairing of certain schools and there are two schools that are urged more often than others, Billingsville and Marie Davis. Could these schools be paired for this year? A. Yes, they could, but I think the same comments that we made about singling out a particular area for action in attendance lines would be applicable if a single school was singled out for pairing.

Q. What effect would this have on your restructuring of lines for next year? A. Rephrase your question, please.

Q. You have just stated that we were discussing the pairing of Billingsville and Marie Davis for this year. What effect would the restructuring for next year have on the pairing that might be accomplished for this year? A. It's possible that in these same schools desegregation could be achieved through a redrawing of attendance lines. I believe that the committee, in its consideration of pairing, came to the conclusion that pairing should be resorted to after you've explored other possibilities for desegregation,

*Dr. William C. Self—for Defendant—Direct*

that attendance line restructuring holds more promise of a permanent solution than does the pairing of schools.

Q. The plan provides another departure, that the school [17] construction program will be reviewed. What effect do you expect this to have on desegregation? A. As I understand it, the construction program is to be reviewed with the objective being to locate, construct and organize school facilities in such a way as to promote desegregation to the extent that it can possibly be achieved through this technique, and I think that some progress toward further desegregation can be achieved through this technique.

Q. Do I understand this technique to be that the schools will be located so as to promote further desegregation? A. Yes.

Court: Does that include giving attention to the size or population of the proposed schools as well as to the location with that purpose in mind?

A. I think it would although, Your Honor, I think that size of school is an optimum way of solving a desegregation problem. Both Syracuse and Buffalo have used many of the techniques we're using here but they are resting a good bit of their hope on the construction of campus schools where large numbers of pupils are housed and practically everyone except those living in close proximity to the campus are transported.

Q. Dr. Self, do you feel that the restructuring of school attendance lines and constructing schools and setting capacities so as to promote further desegregation offers any real solution to the desegregation problem? [18] A. I feel it offers very positive hope.

Q. Now, with reference to the report filed with the Court relating to faculty, have you reviewed the various schedules

*Dr. William C. Self—for Defendant—Direct*

relating to faculty assignments in the elementary schools for this year? A. Yes, I have.

Q. What do you find noteworthy in the report as filed with reference to elementary schools? A. Well, the Board and staff set as a goal 17% minority race representation on every faculty and with only one or two exceptions this goal has been reached. I find this noteworthy.

Q. What has the effect been with reference to formerly no all black or nearly black faculties. I think that we have no all black or nearly black faculties. I think that we have been able to desegregate faculty to the point where it is not a token number of members of the minority race.

Q. Do you have an opinion with respect to faculty desegregation for the school year 1970-71? A. I feel that it is our intention to continue to make progress in this area.

Q. What is the normal attrition of your faculty during the school year from year to year? A. Well, our turnover is rather high. That plus the fact that we grow by about 3000 pupils per year means that we will [19] employ around 650 new teachers every year.

Q. Do you feel that the number of vacancies created and new positions created will enable you to accomplish significant further desegregation of faculty? A. Yes, it will, but we have not relied upon that as the sole technique this year. We have moved some people.

Q. Has this been by assignment by the staff? A. This has been by design of the staff, yes.

Q. What has the faculty acceptance of these assignments been? A. I think on the whole it's been very good. Our Assistant Superintendent, I believe, reported to the Board of Education that there had been three resignations which could be attributed to the fact that these moves were made, but other than that I think it has been very well accepted.

*Dr. William C. Self—for Defendant—Direct*

Q. Has the Board taken any recent action with reference to Second Ward High School or Metropolitan, as it is now referred to? A. Yes. There was a motion made at the last Board meeting which was last Thursday afternoon. I can't recall the wording of the motion but in effect it reserved the bond money which had been designated for the center-city area for the Metropolitan High School for the construction on that site of an educational facility.

Q. Dr. Self, the plan makes mention of compensatory education. Would you tell the Court what is intended when we speak of compensatory education? [20] A. Well, if two students enter a particular classroom at the same time with the same teacher and one of them is behind the other in terms of his achievement, the chances are that he will get further behind his classmate as the year progresses. The only hope that he can catch up is through providing him with additional help and resources. This is the thinking that educators use when you plan a summer school program, help those who need additional help to catch up to their classmates. And actually the compensatory education program as we have it in mind would be the application of this same principle during the regular school year. If we can help the youngster who is in need of it through corrective or remedial programs or something of this nature, we feel that we ought to try to provide it within the limits of the funds that are available.

Q. There is further mention of the in-service training for teachers. What does this involve? A. Simply an attempt to improve the teacher's knowledge of the environment, background, special learning problems of students in a desegregated setting. It could apply to white as well as black.

Q. One of the last statements concerning the plan of

*Dr. William C. Self—for Defendant—Direct*

desegregation relates to further studies of grouping or pairing. What is the proposal of the staff with reference to implementing this provision? [21] A. We propose to do just that. I think that that provision is in the plan because the Board of Education recognizes that this problem is of such importance that every section of the school community ought to be touched by it and if there are some sections that are not touched by school closings or by attendance line alterations or something of this nature, then we would like to find some other way to bring them into contact with members of the opposite race.

Q. Do you have an estimate of the cost of the interim measures for transportation of the students during the school year 1969-70? A. I do. Our Business Service Department has given us estimates on this. They used a figure of \$30.00 per pupil in terms of transportation. That means that if all of the children of the closed area accepted the assignment to another school that we would multiply the 3000 pupils by \$30.00 and came up with \$90,000.00 in terms of cost. In addition to this, it costs about \$98,000.00 in terms of providing the equipment for use in the implementing the transportation program. Then in terms of the relocatable classrooms, which would be necessary in terms of housing the youngsters, our estimate is about \$330,000.00.

Q. Dr. Self, what provision has been made for those students attending the schools being closed who do not wish to be transported? [22] A. The plan calls for the youngsters in the Zeb Vance, Isabella Wyche, Bethune areas who do not choose to take advantage of the transportation to be accommodated in the Zeb Vance Elementary School facility. The plan calls for those youngsters from the Fairview and the Alexander Street area who do not wish to be transported to be reassigned to adjoining schools.



*Dr. William C. Self—for Defendant—Cross*

The plan calls for the students from Irwin Avenue and Second Ward who do not wish to be transported to be assigned to adjoining schools.

Q. So what this basically means is that for these students who do not want to be transported, they won't have to be transported, is that correct? A. That's my interpretation of it, yes.

Q. Do you need community support for the success of this interim measure? A. Definitely.

Q. What support would be most helpful to you? A. Well, I think that the parents whose youngsters are effected by any move in terms of transportation, if they come to an awareness that their youngsters will profit by this, educationally speaking, it would be of great value to us. On the other hand, if the parents in the receiving schools could develop an understanding that their educational program would not be diminished by the move but really would be enhanced by the move, I think we would be helped mightily by [23] that as well.

Mr. Waggoner: I have no further questions.

Court: Cross examination?

Mr. Chambers: Yes, sir.

*Cross Examination by Mr. Chambers:*

Q. Dr. Self, you mentioned that after the Court's order in June the Board met and decided to appoint a five man committee to draw a plan. You also stated that the Board instructed you to review the Finger plan. Did you review the Finger plan? A. Yes, we did.

Q. Did you prepare a written report with respect to the Finger plan? A. Not in that sense, Mr. Chambers. We made a presentation. We had maps and overlays and went



*Dr. William C. Self—for Defendant—Cross*

through the Finger plan in detail. There was some written material but I would not call it a report.

Q. You did have some written material? A. Yes, sir.

Q. And you had some maps? A. Yes.

Q. Are those in your possession? A. They are not in my immediate possession. They are in the office.

Q. How many maps did you have? [24] A. We had the three maps, one for the elementary schools, the junior high and the senior high, three separate maps.

Q. How much written material do you recall that you had in this connection? A. I don't recall how much it was.

Q. However, the complete material is in your possession? A. Yes.

Q. Did you report on the possible pairing of Billingsville, Cotswald, Eastover and Chantilly? A. We did.

Q. Would you tell the Court what you stated about the possibility and feasibility of doing that for 1969-70? A. Mr. Chambers, as best I recall I reported the plan without interjecting any of my judgment into it at that particular time. I simply interpreted what I had understood the Finger plan to be without trying to interject any judgment into it.

Q. Did you state, Dr. Self, whether it was feasible to implement the pairing of those schools for 1969-70? A. No, I did not.

Q. Did you state whether it was possible to integrate those schools for 1969-70? A. No, I did not.

Q. Did you consider in your report the possible pairing of Marie Davis, Collingswood, Sedgefield, Pinewood and Montclair? A. I reported on that pairing arrangement which, I believe, [25] Dr. Finger had drawn up around Marie Davis, yes.

*Dr. William C. Self—for Defendant—Cross*

Q. Did you state whether it was feasible to pair those schools? A. No, I didn't.

Q. Did you discuss the possible pairing of Hidden Valley and Tryon Hills? A. Again, I reported on the plan itself.

Q. Did you state whether it was feasible to pair those schools? A. No, I didn't.

Q. Did you report on the possible pairing of Bruns Avenue, Enderly Park and Ashley Park? A. I reported on the plan itself, yes.

Q. Did you talk about the feasibility of pairing those schools? A. No, sir.

Q. Did you report on the possible pairing of Thomasboro, Hoskins and Lakeview? A. Yes.

Q. Did you report on the feasibility of pairing those schools? A. No, I did not.

Q. Did you report on the possible alteration of the geographic zones for Second Ward or Metropolitan High School? A. I do not recall that.

Q. Did you subsequently, Dr. Self, prepare a report or some information for the Board relative to a plan for desegregation in compliance with the Court's order? A. No, Mr. Chambers, I did not. The committee itself elected to [26] avoid the technique of having the staff prepare a plan for consideration by the committee. The committee itself elected to be involved in the derivation of the plan as a body, not to ask that the staff make it in terms of recommendations to them.

Q. Did you work with the staff in the preparation of any plan? A. I worked with the committee itself.

Q. You worked with the committee? A. Yes.

Q. How many plans did you prepare? A. I believe there were several revisions, at least three that I know of.

Q. Were these revisions written up? A. They were.

*Dr. William C. Self—for Defendant—Cross*

The majority of them had to do with revision of the policy statement.

Q. Are those revisions in your possession? A. I have rough notes on them, yes.

Q. Do you recall whether the committee considered the possible pairing of the schools we just mentioned? A. Not of these schools specifically, no.

Q. Did they consider the pairing of any schools? A. I think in terms of school pairing the school committee concluded that the first alternative for desegregation which should be attempted was the alteration of attendance lines.

Q. Did the committee consider the pairing of any schools? [27] A. Not beyond what I have just stated.

Q. Now, you mentioned something in your direct examination about a Weil report. A. Yes.

Q. Do you know the name of the individual who prepared that report? A. That is his name, Mr. Jack Weil.

Q. Do you know whether he is in court at this time? A. No, sir, I do not.

Q. Did you contact Mr. Weil? A. No, sir, I did not.

Q. Do you know who contacted Mr. Weil? A. Mr. Weil's first contact with me was on his initiative.

Q. He contacted you? A. He did.

Q. What followed after he contacted you? A. He asked for a conference. He stated that as an interested citizen that he would like to talk with me about a technique for redrawing attendance lines. He did not know all of the problems that there would be involved and the conference that we had was for the purpose of trying to give him what data he would need to make some additional judgment.

Q. Did you give him that data? A. To the best of my ability, yes, I did.

*Dr. William C. Self—for Defendant—Cross*

Q. Did he subsequently prepare some report or some information for you? [28] A. He prepared a report and he presented it to some of the members of the committee working on the desegregation plan.

Q. This report was presented to the committee? A. Yes, it was.

Q. Were you present? A. I was.

Q. Now, you're supposed to have today a copy of that report.

Mr. Waggoner: If the Court please, if I may make a statement. With reference to the Weil plan or illustration or whatever it might be, we have some pencil notes that Mr. Weil turned over to us after his presentation at the Board meeting. He did not pass out any papers of any kind. It was merely his notes that he turned over to me as attorney for the Board.

Mr. Chambers: Your Honor, it's my understanding they also have a map.

Mr. Waggoner: There is a map in the back room.

Court: Are you objecting to the question?

Mr. Waggoner: I was just trying to shorten the testimony. It appeared there was some thought there was a formal report presented. It was an oral report from his notes. I have his notes and I have his map also.

Court: I have no intention of killing a lot of time [29] on the whereabouts or the custody of the Weil plan, but it has occurred to me listening to this examination that one of the things the Court has got to decide, if this plan in whole or in part is approved, is what kind of timetable needs to be followed in the preparation of plans and statements of intention for

*Colloquy*

further action. With that in mind, I think the Weil plan or any other plan that somebody might have worked up in whatever form it is would be relevant in trying to set a timetable. So I would be curious about the plan itself without attempting to pass judgment on it.

Mr. Waggoner: If the Court pleases, with reference to the plan, this was a manual plan. It doesn't consider all the options available to a computer. They were a layman's educational criteria applied to designing these boundaries and we feel that it would do a disservice to the community to put this map out for public speculation that the school line could run here or there or I may be in this school or I may be in that school. The Board has no intention of adopting this particular plan. It was merely an illustration. A great deal of mischief would be done to present this to the public.

Court: Well, nobody made an objection so far. What's the next question?

Mr. Chambers: I have filed with opposing counsel a copy of our objections and response to the defendant's plan. [30] We would like to get the map that was prepared by Mr. Weil to identify.

Mr. Waggoner: If the Court please, I object to the Weil map as being irrelevant to the conduct of this hearing. It does not represent any feature of the plan, any adoption of the plan.

Court: Mr. Waggoner, in view of the absence of a timetable which, as you know, the appellate decisions all require in such plan, it evolves upon the Court to set a timetable. The nature of work that may have been generated by Mr. Weil in whatever

*Colloquy*

time he worked on it is of some relevance in enabling the Court to decide what kind of time is reasonable for preparation of this kind of study. If you are, in substance, asking the Court to treat this so-called plan as confidential or to require it not to be released to the public, I'll hear both sides on that because that would make some sense.

Mr. Waggoner: If the Court please, I have no objection to revealing it to the Court and counsel. I just feel that a publication of it would not do this community any service.

Court: You see, Mr. Waggoner, you're in the position of asking the Court to accept the six months timetable for the submission of plan for the further action, but of concealing from the Court and opposing counsel the [31] information from the man who says six months is needed. I can't accept this position. I'll either have to disregard all that's been said about computer analysis or take a look at what Mr. Weil said and do some thinking of my own.

Mr. Waggoner: If the Court please, I believe Mr. Weil would be . . .

Court: You might be in more danger if I have to do my thinking on my own.

Mr. Waggoner: Well, the thing that hasn't been explored, and I think perhaps this would be in the nature of voir dire on determining whether or not this particular map would even relate to a method that would be a process for reaching a restructuring of lines. This was a manual preparation.

Court: They all start out that way.

Mr. Waggoner: And to develop this computer system, all of these hundreds of little boxes on the

*Colloquy*

map, they've got to be stored with the numbers of elementary, junior high and senior high by races and a system has to be designed that would give a computer printout. Mr. Weil has advised it will take three months to do . . .

Court: I can't cross examine you, Mr. Waggoner.

Mr. Waggoner: I know you can't, Your Honor, but I think that Dr. Self, with his familiarity with the difficulties . . .

[32] Court: Let's just put it this way; if you want the Court to pay any attention to the existence or probable contents or difficulty of preparing a computer plan, you have to put the plan up here for the Court to see. Otherwise I'd just have to make sort of a running guess about how long it would take Dr. Self, using the resources of the Board, to do what's necessary to carry out the undertaking that the plan embraces.

Mr. Waggoner: I would prefer to rely on the wisdom of the Court's guess.

Mr. Chambers: I would like to say one thing in reference to that. We would like to introduce this matter, not only because of the contention relative to the time necessary to present a plan for complete desegregation, but also because under Green the Court was to consider alternatives which would produce the most desegregation in the school system. Now, the Board has submitted this plan and it's before the Court on the condition that it's all the Board or the most feasible step the Board could take for 1969-70. We want the Court to consider what Mr. Weil has done to determine whether there should be some other step that the Board should



*Dr. William C. Self—for Defendant—Cross*

take to desegregate the system for 1969-70. We submit, therefore, that what evidence is presented on the Weil plan would be relevant on the matter of whether there should be some alternative plan or, if the Court accepts the plan that [33] is submitted, what time schedule should the Board be required to present the new plan.

Court: Mr. Waggoner said he wanted me to guess on that. I would rather not guess to the extent that this is necessary, but I don't think it's really a guess, it's an estimate based on the evidence in the case and in the absence of some evidence as to what it takes to do that the Weil plan or what the use of a computer would require, I will have to disregard the opinions that have been given about six months being required. We come out the same place whichever way we start. I'd rather get on to something else than to . . .

Mr. Chambers: I would like to offer this evidence on the feasibility of an alternate plan.

Court: As I recall the evidence already in the record, the evidence of Dr. Self in this court before was that all of these groupings and pairings about which you've ask him were feasible if politically accepted. That's substantially what you testified before, isn't it?

A. I used the qualification administratively feasible.

Court: Administratively feasible but it might make people mad. That's my recollection of what he said about all of Dr. Finger's plan except for a couple of areas that he ruled out.



*Colloquy*

Mr. Chambers: Well, Your Honor, I also understood him to say that he did not consider it educationally advisable [34] to pair those schools for 1969-70.

Court: He didn't say that in his previous testimony. What he said earlier today is that he did not recommend to the Board that they were feasible for 1969-70.

Mr. Chambers: There was a question about whether the children involved in those areas would be going to a disadvantaged area in connection with sending some white kids into black schools. Again, I simply go back to Green and we should, I submit, be able to show the Court that there are other feasible plans that this Board could utilize for 69-70 which would effectively desegregate the system better than the plan that is now before the Court.

Court: Don't you suppose the Court knows that? Don't you suppose everybody here knows that?

Mr. Chambers: If the Court is going to do what we request the Court to do, that is, to bring in another plan, if the Court requests the Board to do that, that's the only thing . . .

Court: If the evidence in the case already demonstrates to the satisfaction, I think, of everybody that's heard it that more could have been done than is proposed to be done here, I don't think we need to belabor that.

Mr. Chambers: It still leaves me hanging on whether the Court is going to require a new plan.

Court: The Court is still hanging on that point,

*Dr. William C. Self—for Defendant—Cross*

**[35]** Mr. Chambers. I don't believe a lot of information about the Weil plan is going to help us on that.

Mr. Chambers: May I make one further request, Your Honor. Since it has been indicated that the defendant would not like the plan to be offered in public that the Court allow us to offer this plan under Rule 46.

Court: If you've got it, you may offer it. I have no objection to its being offered, and I'll rule that it may be admitted if you've got it.

Q. Now, Dr. Self, you talked about the seven schools, the closing of the seven black schools. In the plan submitted by the Board in April the Board did not propose to close either of those schools for 1969-70. A. That is correct.

Q. Now, would you tell the Court what led the Board to decide to close those seven schools for 1969-70? A. Well, I think the starting point for such deliberations was the policy statement by the Board of Education. They felt that further desegregation of students was called for at this time. They saw this as a way of achieving it.

Q. Now, why did they decide that the closing of those schools was the way to achieve further desegregation? A. Well, I think that one thing that influenced their thinking was that it was a part of the proposal by the plaintiffs' expert in this area, and the second thing which called it to **[36]** their mind was that the technique of school closing had been employed before by this Board of Education and was employed by both Boards of Education in Buffalo and Syracuse.

Q. In your report you indicate that the Board considered it more feasible to consider the closing of black schools and

*Dr. William C. Self—for Defendant—Cross*

transportation of black students one way than to integrate both the black and white schools, is that correct? A. I think in my testimony I tried to indicate that the movement, educationally speaking, is more defensible if you can move a youngster from an area in which he may suffer educational deprivation into one where he is promised a better education.

Q. Did the Board determine that there was no black school in the system which would allow a student to advance educationally? A. No, the Board did not.

Q. Now, did the Board decide that there are some black schools in the system which would allow a student to advance educationally? A. I don't believe that the committee discussed this.

Q. All right. Now, you gave your opinion a moment ago about the educational advantage of transferring students from a disadvantaged area to a more advanced area. In your opinion is there a black school in this system which you would utilize to integrate students in the schools? A. Not at this time.

[37] Q. You stated that the objective of the Board was to proceed further with integration in 1970-71. Is it your intention as you understand the policy of the Board to close all of the black schools in this system? A. I believe I stated that it was our intention to proceed further with faculty desegregation in 70-71 but it is not my understanding that the Board of Education contemplates closing all black schools.

Q. Is it your understanding that the Board contemplates closing more black schools in 1970-71? A. That is not my understanding.

Q. Is it your understanding that it plans to close any? A. No, it is not.

*Dr. William C. Self—for Defendant—Cross*

Q. Then, despite the fact that you say there is no black school in this system which would offer any educational advantage for purposes of integration, you do not understand the Board of Education plans to close any more black schools? A. I did indicate that it was not my understanding that the Board of Education intended to close any additional black schools.

Q. Does the Board plan to integrate any of the remaining black schools? A. That matter was not discussed by the committee.

Q. Then is it your testimony, Dr. Self, that the Board excluded any consideration of integration of black schools for 1969-70? [38] A. For 1969-70, yes.

Q. Well, does the Board plan to integrate any of the black schools in 1970-71? A. I have no way of knowing that, Mr. Chambers. It has not been considered by the committee.

Q. Well, you filed a report here that said that you were going to draw new school zone lines and that you were going to use the objective of the Board of promoting integration. Now, is it your understanding of the policy statement of the Board that you are to integrate the remaining black schools? A. Well, it could be assumed from reading the policy that this would be an ultimate goal but this matter has not been discussed by the committee as yet.

Q. Well, you testified, Dr. Self, that you anticipated substantial integration of students in 1970-71. I want to know what standards of criteria you're planning to follow and if you are planning to integrate the remaining black schools or leave them like they are. A. Well, these plans have to be devised, Mr. Chambers, by the Board of Education working with the staff. I am not at liberty to say what it is that the Board of Education intends to do.

*Dr. William C. Self—for Defendant—Cross*

Q. You just testified about you anticipate a substantial integration of teachers, that you anticipated substantial integration of students as a result of the new zones and as [39] a result of the new school plan with respect to construction. Are you telling the Court now that you don't anticipate this integration? A. No, I am not. I am saying that we will try to use these techniques which have been identified as a part of the plan to achieve substantial further desegregation.

Q. Isn't it a fact, Dr. Self, that the committee discussed and you understood the committee and the Board as requiring no integration with white students going into black schools in 1969-70 or later? A. That is not my understanding.

Q. Did you understand them to require integration of these black schools? A. I understand from the declaration of the policy on the part of the Board that we will move in this direction.

Q. In integrating black schools? A. But what techniques will be used I have no way of knowing at this particular time.

Q. Dr. Self, did you consider it feasible to integrate West Charlotte in 1969-70? A. Did I or did the committee?

Q. Did you? A. No, I did not.

Q. Do you now consider it feasible? A. Not at this time.

[40] Q. What would be the educational reason for not integrating West Charlotte? A. The educational reason for not integrating West Charlotte?

Q. Yes. A. I don't know of an educational reason. There are certainly some political and economic reasons.

Q. What would be the political reason? A. I think that the technique for integrating West Charlotte would be a very marked change in the attendance lines of West Charlotte and that redrawing of an attendance line should be

*Dr. William C. Self—for Defendant—Cross*

accompanied by a reexamination of every other attendance line in the school system.

Q. Did you consider the feasibility of using a different feeder system for West Charlotte? A. No, we did not.

Q. It isn't necessary, therefore, to redraw the lines to integrate West Charlotte. A. If you used a feeder system.

Q. And is it feasible to use a feeder system and use transportation for white students into West Charlotte for 1969-70? A. Not in my opinion.

Q. What would be the reasons that would indicate educational disadvantages in bringing in white students by a feeder system into West Charlotte? A. Would you repeat your question?

[41] Q. In your opinion you say it would not be feasible to integrate West Charlotte in 1969-70. I'm trying to find out why you're saying that. A. I think I did indicate that I thought that the technique for integrating West Charlotte would be through the restructuring of attendance lines and to single out one school and draw its attendance line in a different way at this particular point would seem to me not to be feasible.

Q. Well, you have singled out seven schools. Are you saying that you can single out these seven but you should not single out any other?

Mr. Waggoner: If the Court please, this is argumentative rather than evidentiary.

Court: Objection overruled. How much longer do you think your examination of Dr. Self will last?

Mr. Chambers: About another hour, Your Honor.

Court: Let's take a ten minute recess.

. . . . .

[57] . . .

WHEREUPON, Dr. Self returns to the witness stand.

*Dr. William C. Self—for Defendant—Cross*

*Cross Examination (Cont'd) by Mr. Chambers:*

Q. Dr. Self, has the Board determined where it will assign the black students at Second Ward or Metropolitan High if that school is closed? A. Yes, it has.

Q. Would you tell the Court which schools these students would be assigned to? A. Harding, West Charlotte, Garinger, East Mecklenburg, Myers Park, South Mecklenburg.

Q. Has the Board determined how it's going to assign these students? A. Yes. The plan calls for dividing the Metropolitan district in such a way that part of it falls in the attendance areas of the schools that I named.

Q. Has that district been divided into the districts in the schools that you named? A. Yes.

Q. Did you do this by a map? A. Yes.

Q. Do you have a copy of that map? [58] A. No. The plan contains the description of the revised attendance lines.

Q. But you don't have a map? A. No, I do not.

Q. Approximately what is the average distance that these students will be bused? A. I could only guess at about three miles.

Q. Approximately how far is East Mecklenburg from the center part of Charlotte? A. I would estimate five and a half miles.

Q. Approximately how far is South Mecklenburg? A. Probably seven miles.

Q. Approximately how far is Harding? A. From the center of Charlotte?

Q. From the center of Charlotte. A. Again, I'm only estimating. I would estimate about two and a half miles.

Q. Approximately how far is West Charlotte from the center part of Charlotte? A. About the same.

Q. Now, have the faculty members at Second Ward or Metropolitan High already been assigned by the Board?



*Dr. William C. Self—for Defendant—Cross*

A. That's my understanding, yes.

Q. Do you know what was done with the principal of that school? A. Yes. Mr. Waddell was made Assistant to the Superintendent.

【59】 Q. And what does that mean? A. Just as the name implies.

Q. What will he do? A. He will assist in whatever areas of work there are in the office which demand attention.

Q. That is a new position? A. Yes, it is.

Q. With no defined duties. A. None other than what I have said.

Q. Do you know what the football coach of Second Ward is to do for next year? A. I do not know.

Q. Are you familiar with the guidelines of the Department of Health, Education and Welfare pertaining to teachers? A. Not intimately, no.

Q. In your determination to assign the coaches at Second Ward or Metropolitan High School did you consider the qualifications of all coaches in the school system? A. I believe that pertains to dismissal of personnel, does it not? No one has been dismissed.

Q. Did you consider the qualifications of all coaches in the school system? A. No.

Q. He wasn't compared, for instance, with the coach at East Mecklenburg or South Mecklenburg? 【60】 A. I do not know. I do not believe so.

Q. Your policy doesn't provide for that, does it? A. No, it doesn't.

Q. So he will be assigned irrespective of his qualifications or ability. A. To a position as closely as possible as we can to the position he held at Second Ward.

Q. I gather coaches at various schools make additional money because of their coaching duties. A. They are supplemented.



*Dr. William C. Self—for Defendant—Cross*

Q. And if he does not get a coaching position he will lose this money for 1969-70. A. He will have a coaching position and he will receive his supplement.

Q. Do you know which school he will be coaching at? A. No, I do not.

Q. Do you know what school the basketball coach has been assigned to? A. No, I do not.

Q. Do you know if he will have a coaching position? A. He will.

Q. Is there a difference between the salary of an assistant coach and a head coach? A. There is.

Q. Will they have head coaching positions? [61] A. I do not know. If he does not, he will not suffer a penalty in salary. An exception will be made.

Q. This is similar to the practice you followed in 1965 in assigning the black principals to assistant principal positions. A. I don't believe it is the same.

Q. Now, did you have guidance counselors at the Metropolitan High School? A. Yes.

Q. Do you know what schools these guidance counselors have been assigned to? A. I do not.

Q. Did you have cheering leaders at Second Ward High School? A. Yes.

Q. Do you know what arrangements have been made for them at the schools to which they are being assigned?

Mr. Waggoner: If the Court please, we are going to object to this. This is getting down to intimate details of assignments within a particular school. I don't think we're here this afternoon to get to individual personalities and where they may be placed. We made our statement and if they feel this is untrue, then the burden is upon them to come

*Dr. William C. Self—for Defendant—Cross*

forward and show that we have discriminated in reassignments.

**[62]** Court: Objection is overruled.

A. It is my understanding that this matter was discussed in the principals' meeting where the details were being planned and that the person who had the cheerleading position at the Metropolitan High School would be automatically a cheerleader in the receiving school, if they chose to transfer.

Q. Do you know about the student organizations at Second Ward? A. Not in detail, no.

Q. Do you know what accommodations have been made for the student leaders at Second Ward? A. They are to be accorded positions similar to this in the receiving school. If they are members of a National Honor Society, they are automatically members of the National Honor Society at the receiving school.

Q. What about holding offices in the organizations? A. I do not know that that detail has been discussed.

Q. Do you know whether any of the students at Second Ward presently were being considered for scholarship opportunities following graduation? A. I do not know.

Q. Do you know what arrangements, if any, have been made if any student at Second Ward was being considered for scholarship opportunities? A. Sorry, I don't understand the question.

Q. Do you know whether you have made any arrangements for the **[63]** coaches at Irwin Junior High School? A. The same arrangements made for the coaches at Metropolitan High.

Q. Before leaving Second Ward, I believe you have at each of the high schools you mentioned ability groupings.

*Dr. William C. Self—for Defendant—Cross*

A. Yes.

Q. Is it your intention to give additional tests to students at the receiving schools to determine which ability group the student should be in? A. No, it is not. We anticipate placing these youngsters in many of the classes in this school. We will definitely prevent the sectioning of these youngsters by themselves in a section.

Q. Well, do you plan to have ability groupings at these high schools, the receiving high schools? A. Yes.

Q. Do you plan to put these students in any of the groups? A. In all of the groups, not in one.

Q. Do you know how you will place them in the groups? A. I think the best determinate would be the marks which they scored at Second Ward and the teacher's judgment there.

Q. Now, have you decided on your bus routes? A. No, we have not.

Q. Have you purchased your buses? A. No.

[64] Q. Do you plan to purchase these buses before the beginning of school? A. We do if our plan is approved.

Q. When will school begin? A. September 2nd.

Q. Now, it's my understanding you don't have enough mobile units at all of the schools to accommodate the students who are going to be transferred. A. That's true.

Q. And you won't have the mobile units there at the beginning of the school term. A. That's true.

Q. And that it will take approximately six months in some cases to get sufficient mobile units there to accommodate the students. A. According to our conversation with the vendors, they can deliver a certain number, five to ten, early in September and that we might expect one or two units per month delivery schedule from that point on.

*Dr. William C. Self—for Defendant—Cross*

Q. Do you anticipate having enough mobile units at the various schools to accommodate all the students by January, 1970? A. I'm sure we would have by that time.

Q. Do you think you would have enough units by December, 1969? A. Probably.

Q. What do you plan to do with the students in the meantime? [65] A. Well, the section of the plan which anticipates movement of youngsters from overcrowded black or all black or nearly all black schools anticipates movement during the year and that provision was written into it, recognizing the fact that we could not have all mobile units immediately. The children from the closed schools will be accommodated, those of them who choose to exercise this privilege of moving into another school, in whatever fashion we can come up with. We will take mobile units wherever possible from schools where new construction makes them available once more. I think the Paw Creek situation was a technique for getting some mobile units to accommodate this purpose. Things of this nature. We have, on occasions, had to use classrooms on stages, auditoriums, partitioning larger than average classrooms, making them two, the same techniques we have used all along to try to accommodate the youngsters.

Q. Do you know the number of black schools in your system that will be underpopulated for 1969-70? A. No.

Q. Do you recall the testimony of Dr. Larsen about the number of black schools that had substantial space accommodations? A. I recall the testimony of Dr. Larsen but not in the detail you're requiring here.

Q. You don't recall the report that they submitted that was identified in evidence in this proceeding? [66] A. I recall their report but not the details of the report.

*Dr. William C. Self—for Defendant—Cross*

Q. Dr. Self, would you state whether in your opinion there are approximately 2500 spaces available in black or predominantly black schools in this system for 1969-70?

A. I do not recall that detail, Mr. Chambers.

Q. Do you know approximately how many are available? A. No, I do not.

Q. Now, there are some overcrowded white schools, are there not? A. Yes, sir.

Q. And the Board has no intention of transporting any of the white students from those overcrowded schools to spaces available in black or predominantly black schools.

A. That is not a part of the plan.

Q. Now, Dr. Self, did you study the Weil plan? A. Not in depth, no.

Q. Did it provide for the complete desegregation of the elementary schools in this system? A. It did not.

Q. Do you know which schools it left segregated? A. No, I do not.

Q. Did it leave any black school in the system racially identifiable as a black school? A. I don't recall.

Q. Now, in your report about faculty desegregation you state that in 1970-71 you will move further along in desegregating the [67] faculty members. A. Yes.

Q. Do you have a timetable for complete desegregation of faculty members in this system? A. I think it is generally understood that the task would be accomplished in the next school year.

Q. Did the Board decide to do that? A. The Board has made no definite decision in this direction.

Q. And it's not written in the plan. A. No, sir.

Q. Now, how did the Board arrive at the 17%? A. I believe that there was conversation which was introduced

*Dr. William C. Self—for Defendant—Cross*

relative to how much faculty desegregation could be expected and a review of a court case—I don't recall which case—indicated that a ruling had been made which ordered the system to move to a one to six ratio. I feel that this influenced our group to determine this as the goal which we would try to achieve this September.

Q. Now, in this document which has been referred to in this record as the Self plan you proposed to completely desegregate teachers 1969-70. A. It did, but it did not define completely desegregated.

Q. You did not state in your proposal that you would have the percentage of teacher desegregation as directed by the court? A. I don't believe that it did state a definite percentage.

[68] Q. You don't have a copy of your proposal with you, do you? A. No, sir.

Q. Are you telling the Court that you didn't state in April of 1969 that in your opinion you could achieve 33% desegregation in each school in the system? A. That ratio was not used to the best of my recollection.

Q. How did you determine that you couldn't do more than 17%? A. We set this goal and worked toward it, Mr. Chambers.

Q. And you stated that you had approximately three resignations which you could attribute to non-racial assignment of faculty. A. Yes.

Q. Dr. Self, did you prepare a report on the number of students who would be affected by the elimination of freedom of choice in this system? A. A report was prepared in the Research Department of the school system.

Q. Are you familiar with the Court's finding that freedom of choice in this system had promoted segregation of the schools in the system? A. I don't recall that finding.

*Dr. William C. Self—for Defendant—Crose*

Q. You don't recall that finding? A. No.

Q. Why didn't the Board eliminate freedom of choice for the next school year? [69] A. I can only conjecture that the Board members felt that freedom of choice had rather slight effect on the overall problem.

Q. Do you know how many white students would be at York Road if you eliminated freedom of choice? A. No, I do not.

Q. Do you recall whether your report showed 190? A. I don't recall that detail.

Q. Do you recall how many white students would be at Amy James if you eliminated freedom of choice? A. No, I do not.

Q. Do you recall how many white students would be at Marie G. Davis if you eliminated freedom of choice? A. No, I do not.

Mr. Waggoner: If the Court please, this is a matter of record. The exhibit is filed before the Court and it seems to me he's asking questions that he couldn't humanly be expected to recall such figures as this.

Court: Mr. Chambers, are you about through with this phase of your examination?

Mr. Chambers: About freedom of choice?

Court: If you're pursuing something that I ought to be listening to real hard, I want to hear about it.

Mr. Chambers: I would like, then, to get the report of Dr. Self regarding the effect of freedom of [70] choice in the school system.

Court: That's not at issue here. The Court found as a fact that freedom of choice does not promote



*Colloquy*

desegregation and that the constitutional purposes have to be accomplished totally without regard to freedom of choice.

Mr. Chambers: The plan they have now doesn't eliminate freedom of choice.

Court: The Court did not direct that freedom of choice be eliminated. It directed the School Board do the job regardless of whether they kept freedom of choice or not.

Mr. Chambers: Without it being eliminated in 1969-70 you will have 1200 or more white students transferring out of integrated schools.

Court: That's my recollection of the figure.

Mr. Chambers: And we contend that's an element that has clearly been ruled unconstitutional by the Supreme Court and that it should be ruled out in this plan, too.

Court: I made the clearest statement about it that I think has ever been made. I said freedom of choice promotes segregation. It does not promote compliance with the constitution and that the constitutional mandate has to be accomplished by methods other than [71] freedom of choice. But I also said if the Board wanted to operate a system in which people had some freedom to go from one school to another and could, in spite of that, comply with the constitution, that's their business, not mine.

Mr. Chambers: The evidence now before the Court, we submit—and that's the reason I was going into it now—clearly shows that freedom of choice promotes segregation in this system and without it being eliminated here and now, it would perpetuate



*Colloquy*

segregated schools in the system. There is no justifiable reason whatever for allowing freedom of choice in the system for next year, none whatsoever. They have not advanced one educational reason for leaving it in the system for next year, and I think the court decisions clearly hold that the school systems have to get rid of it now.

Court: Well, it may be the distinction or the difference that isn't apparent yet. It seems to me that some day you may be asking the Court to restore freedom of choice if the Court today rules it out.

Mr. Chambers: Your Honor, that might be true and it might be true that the Board will come in with a plan next year which will be acceptable to all parties and we might come back in years hence and ask that some alterations be made. We cannot control the housing patterns. We think that at this stage of the game, where the record clearly shows that freedom of choice perpetuates a segregated system, that the [72] decisions of the Supreme Court and the decisions of the Fourth Circuit require that it be eliminated now.

Court: Are you suggesting, for example, that the freedom of these 4200 children to stay where they are be abrogated by the Court?

Mr. Chambers: I am suggesting if the Board is going to use freedom of choice in any instance that it be only a majority to minority transfer of a student in a black school to a white school or a white student in a white school to a black school—as we referred to them, majority to minority transfers. Now, the Board proposed that in the plan considered by the Court in June and it also contained

*Colloquy*

in there the general open-ended freedom of choice provision and the Court spoke highly of the majority to minority transfer. But we think here now, if it's allowed, that the only way it should be allowed would be a situation where the students are allowed to transfer from a school where their race is in the majority to a school where their race is in the minority. There is no justifiable reason at all for allowing general freedom of choice and it further emphasizes the point Rev. Leake was talking about, that we're always talking about moving black kids to white schools.

Court: Well, this reminds me of the story that one of the lawyers told me recently, one of the lawyers in this case. The very wise old Rabbi had a man and his wife come [73] in fighting, as husbands and wives do, and the wife told her story and the Rabbi said, "You know, you're right." Then the husband says, "I want to be heard.", and he said, "Yes, I'm going to hear you." Then he heard the husband and he said to the husband, "Well, you're right." And his clerk said, "How can they both be right?", and the Rabbi turned to him and said, "You're right, too."

Now, that story merely illustrates the point that when you're dealing with a situation with so many hundreds of variables, you can't be perfect about it all at once. It was my judgment six days ago that what I found and ruled about freedom of choice in this system for this school year was substantially correct. It may not be right, but I get your point. It's still a live point but I don't know that we need any further evidence on it. Any ruling necessary

*Dr. William C. Self—for Defendant—Cross*

on that subject is amply covered by the evidence already introduced and by the finding that I've made which says that freedom of choice, to the extent of a thousand or 1200 students a year in this system promotes segregation of the races. That's true.

Mr. Chambers: If counsel for the School Board will stipulate that is the effect projected—

Court: That's been found as a fact. Nobody needs to stipulate that.

Mr. Chambers: Your Honor, I'm talking about the [74] effect in 1969-70. The evidence before the Court was talking about what occurred in 1968-69.

Court: All right. Isn't this covered by the statement in the report which says that the net effect of it is some—no, I guess it's not expressly covered.

Dr. Self, does that continue to be the general result of the free transfer provision, that it enables a goodly number of white students to get out of a mostly black school? Is that the net result of the free transfer provision?

A. Yes.

Court: It's still true that if any white children have requested transfer from a white school to a mostly black school your records don't reveal it?

A. That's true.

Court: And would you estimate that the number of white children who would be in mostly black schools this fall without free transfer provisions would be somewhere between a thousand and twelve or thirteen hundred?

*Dr. William C. Self—for Defendant—Cross*

A. I think that's about right, Your Honor. It's an estimate.

Court: O-K.

Mr. Chambers: Would the Court indulge me one moment?

Court: Yes, sir.

Mr. Chambers: I just have one or two more questions.

Q. What consideration did this Board give the anti-busing bill [75] in the drafting of its plan? A. I don't think it influenced the Board. It was not considered as a part of the plan.

Q. What was the purpose in the plan for the provision that if the black students objected to being assigned to the school to which they were assigned by the Board they would then be allowed to choose Zeb Vance or attend Zeb Vance? A. Well, I think in my own mind the provision was introduced because in educational fields we think that it is good to have some alternatives to a particular plan. On occasion, if you have that alternative, it may save your plan.

Q. What do you mean by that? A. To allow those who object vehemently to a particular course of action something else to choose from.

Q. Something— A. Something else to choose from.

Q. Is that why you used freedom of choice? A. I think that's one of the purposes of freedom of choice.

Q. And the reason for the provision that the students who were assigned to Irwin and Second Ward who did not want to go to the school to which they were assigned by the Board that they would be allowed to attend the next nearest school was to give them another chance or another alternative? A. To give a second alternative.

*Dr. William C. Self—for Defendant—Cross*

Q. Well, why did you limit them to the next nearest school? [76] A. I don't know.

Q. Can they request transfer to another integrated school? A. I would assume that these youngsters, upon being assigned could exercise freedom of choice to another school.

Mr. Chambers: I have nothing further.

Mr. Waggoner: No further questions, Your Honor.

Court: All right, come down, Dr. Self.

I have a statement which was supplied by the record of a specially called meeting of the League of Women Voters recently, expressing their belief that the community should assume the responsibility for desegregating the schools and improving the quality of education, expressing generally support for the point of view that the plan proposed by the Board is unfair and one-sided and that the Weil plan should be made public.

You may put this in the record, Miss McKnight.

Mr. Chambers: Your Honor, I'd like to correct the record. When I was discussing the Weil plan previously I made reference to it being admitted under Rule 46.

Court: Well, I don't remember the numbers of the rules, either, Mr. Chambers.

Mr. Chambers: I meant Rule 43(e). We would like to identify that map and the overlay, as Plaintiffs' Collective Exhibit # —.

Mr. Waggoner: Your Honor, we would like the Court [77] to order that this be held confidentially in the Clerk's office.

Mr. Chambers: Does that mean we'll be excluded from looking at it, too?

*Colloquy*

Mr. Waggoner: No, sir. Just counsel will be permitted to review it and the Court.

Court: Do you want it to be confidential from the Court or do you want the Court to consider it in making up the timetable?

Mr. Waggoner: No, sir. As I understand, he is introducing this on the basis it's excluded testimony and it will be in the record in the event he appeals and, therefore, it is not properly evidence in the case. It's merely an offer of proof under Rule 43(e), and therefore it really does not constitute evidence in the case but the proof is offered.

Mr. Chambers: Your Honor, I don't recall the Court actually ruling that it could not be admitted. The Court was considering its relevance but never ruled that it was not admissable. I was tendering it really under the rules so that whatever determination the Court made, we would at least have it in case the matter were appealed to the Fourth Circuit.

Court: Well, in view of the fact that the Court is not going to consider what was said about the Weil plan in making any extended timetable for further action by the Board, the request that the Weil plan not be publicized will [78] be granted and it will be kept confidential by the Clerk except as to counsel, unless and until good cause is shown to the contrary. It will be open to all counsel who want to see it. It will be considered as evidence unrestricted in the event the record on appeal needs to be made up. I will not undertake to understand it myself and I will not consider in any further orders how long it would take to develop the Weil plan. Mr. Weil is getting a lot of free advertising. Does

*Colloquy*

that cover what everybody wants about the Weil plan?

Mr. Waggoner: Yes, sir.

Mr. Chambers: No. We'd like to tender that Weil plan as evidence to show that the Board could have adopted a different plan which would have resulted in more complete desegregation of the school system.

Court: Well, I can find that totally without regard to the Weil plan and I will, if need be, but I don't think that's our real problem here. We have a community problem that gets into this court because it raises questions of equal treatment of people under the law. Nobody here created the problem. We have all participated in it. When this case was last heard in 1965—I was just looking back at the original order—the Court could very properly proceed upon the assumption that teacher desegregation could be validly accomplished by having the same proportion of black teachers in a school as you have black pupils. They could proceed [79] upon the assumption there was no duty on the Board to increase or change the racial makeup of a school, and all that was good law under Briggs against Elliot, which Judge Parker decided about eight or ten years ago, and all of that law has been changed. But the fact that the Supreme Court has ruled as it did and that it's the duty of the School Board and the court to desegregate the schools now doesn't mean that they need to be hung if it doesn't happen this week. It takes a little time and a little patience and, frankly, I find in the policy change and in the faculty integration and in the somewhat disappointing one-way proposition a lot of action and a lot of implications



*Colloquy*

which I think are most favorable for the completion of this job in fairly short order.

I'd like to think, when I'm not mad with somebody myself, that everybody is right and is proceeding according to his own conscience, and with all of us this is true about 95% of the time. It will be helpful if we remembered that we are not just here grading papers on some rule that's been in existence forever, but we are here taking part in a change that nobody here started and nobody here will see the end of. I don't know at this moment what my duty is under the constitution about the approval or disapproval or modification of this plan, but if we can leave here with everyone feeling that he has been fairly heard and that there is time to achieve perfection, then all the [80] commotion may have been somewhat worthwhile.

Mr. Chambers: Your Honor, I'd like to say one thing. Rev. Leake has spoken about the black community reaction to the Board's plan and I must say that what the Court now has before it, I submit, is a plan—and even though an interim one—that should not be approved by the Court. I think for good reasons many of the black citizens in this community have expressed apprehension about the portent of this plan for 1970-71, even if the Court were to approve what we have now. I think the testimony of Dr. Self clearly demonstrates that what we're going to be doing in the future is moving black kids to white schools. Now, we contend in our objections to the plan not only that it is rank discrimination to have one-way busing, but unconstitutional discrimination . . . I mean to say more persuasive discrim-



*Colloquy*

ination when you have some clearly easily obtainable means for implementing the constitutional duty of this Board that the Board simply refuses to undertake because of race. I mean specifically that freedom of choice in this system has no constitutional justifications or even any pragmatic justification at this stage. There are many schools in this system, black, that could easily be integrated by this Board now, and to approve a plan now that provides for only one-way integration is only going to set the tone for the rest of the practices by the Board that it will carry out plans of [81] desegregation by moving blacks into white situations. I think that the Brown decision itself clearly pointed out the dilatorious effect this practice would have and I think that we aren't really accomplishing the objectives of Brown to just talk about the idea that we're going to get better educational settings for black students by putting them in white schools without considering also the effect that always moving blacks to white schools will have on the students. Now, we have here in this system, where we are trying to bring the people together as the Court intimated, an opportunity now for showing the black people that we're going to integrate the school system right even beginning 1969-70 by requiring that both black and white students be integrated into all schools in the system. And I think this is the opportunity for doing it and I respectfully request that the Court order that it be done.

We have, as the Court intimated at the beginning, for further consideration by the Board a statute pending and we have our motion for temporary re-

*Colloquy*

straining order before the Court and whatever future considerations are given by this Board to a plan, we think, would probably be effected by this statute and we would like to be heard.

Court: I don't want to shorten the discussion of the anti-busing law but it contains a provision in it that the anti-busing neighborhood school law does not apply to [82] any transfer necessitated by overcrowded conditions or other circumstances which, in the sole discretion of the School Board, require reassignment. That is an exception which makes the statute totally null. It's a statute which attracted a lot of attention but which contains a statement in it that this statute doesn't prevent a School Board from doing what for any cause it chooses appropriate to do. As I read the plan which the Board has prepared, they have quite properly read all of the statute instead of its title and read the part that says they may make any transfer or assignment that, in their sole discretion, they desire and they have not considered it in doing what's being done here. I am assuming that they will continue to put that interpretation upon it and we don't really have to deal with the question of a temporary restraining order as far as the Charlotte-Mecklenburg School Board is concerned.

Mr. Stein: Your Honor, may I speak very briefly to that? I think that possibly the statute is not a paragon of clear legislative drafting, but I would suggest that a contrary interpretation to that which you have given it might be read into it and that as it stands it has the possibility of having a chilling

*Colloquy*

effect upon the prospects for integration. May we point out that the plan that they have provided for looks to the exceptions in the statute, not the general one you speak of, but the provision here which allows for [83] freedom of choice for everybody. I think that despite the testimony of the Superintendent, the fact they left Zeb Vance over there, giving all black students an opportunity to apply there, the fact that on Page 2 they talk about closed schools and temporarily reassigned pupils looks to the provision in the statute which says the provisions of this article shall not apply to temporary assignment due to the unsuitability of the school for its intended purpose. That's their claim here. You might be right, Your Honor, that there is a total escape clause here, but we would urge that in your order, which we expect shortly, that some language be in there directing the Board to do what you seem to suggest they have already done, and that is to ignore the statute.

Court: I suppose since you haven't paid any attention to it anyhow, it's not material what's done as long as there is no door being closed against a hearing by the State of North Carolina, which is not represented here today.

Mr. Weinstein: Your Honor, we have consulted with the Attorney General's office in view of the fact that they have, at least tentatively, the State Superintendent of Education, the State Board of Education, been made parties and we are informed by Mr. Ralph Moody, the Deputy Attorney General of North Carolina, that they intend to take a posi-

*Colloquy*

tion with reference to the statute now being discussed. Mr. Moody did not have notice that this might come up today until late [84] yesterday and he was in Washington and he asked us to convey the message to the Court that he would urge the Court to defer any action with reference to the statute until he had an opportunity to be heard.

Court: Certainly nothing done today will be binding upon the State and I'm just a little bit undecided whether to put any temporary restraint on the School Board in view of the fact that they've read the statute and it's not inhibiting their action here. I'm just going to have to think a little about whether to include any kind of restraint on the School Board. My inclination is really not to do it but I've got to think some about it.

Mr. Weinstein: Your Honor, as I read the statute I heard the words used with reference to some statutes that the exception swallowed the statute and we have testimony here that these exceptions, with reference to the plan pending before the Court, swallow the statute. There's no objection to what's been presented to this Court or what is contemplated for the future.

Court: Is there anything else that counsel wants to say? I would like to talk with all the lawyers as soon as court adjourns.

I'd like to express my thanks to all of you who came today and stood and sat so quietly through a right warm afternoon. Adjournment, please.

**Answer of the Defendants, the North Carolina State  
Board of Education and Superintendent of Public  
Instruction of the State of North Carolina, to the  
Supplemental Complaint**

(Filed August 11, 1969)

(1) Answering the allegations of Paragraph I of the Supplemental Complaint, these answering defendants allege that the order allowing the plaintiffs to file a supplemental complaint is based upon a motion which was filed in the Office of the Clerk of the Federal Court for the Western District on July 22, 1969, and the order of the Judge of the District Court was also filed on the same date, July 22, 1969, and said order allowing said Supplemental Complaint to be filed is void, invalid and contrary to due process of law for that the North Carolina State Board of Education and the State Superintendent of Public Instruction were never given an opportunity to appear before the Court and resist said Motion, but, to the contrary, the same is an ex parte order entered without service upon the said defendants of any notice or copy of said motion prior to the granting of said order; it is admitted that there is quoted in Paragraph I of the Supplemental Complaint a portion of Chapter 1274 of the Session Laws of 1969 of the General Assembly of this State; it is denied that the plaintiffs are entitled to any preliminary and permanent injunction as against these State defendants or that the plaintiffs are entitled to a declaratory judgment as against these defendants.

(2) Answering the allegations of Paragraph II of the plaintiffs' Supplemental Complaint, it is denied that this Court has jurisdiction as against these State defendants under Federal statutes cited in said paragraph or under the

*Answer of the Defendants, the North Carolina  
State Board of Education, Etc.*

constitutional provisions cited in said paragraph; it is denied that G. S. 115-176.1 is unconstitutional and invalid or that the plaintiffs are entitled to any declaratory judgment or the convening of a 3-judge federal court; the allegations of Paragraph II are, therefore, untrue, and are denied.

(3) The allegations of Paragraph II are untrue and are denied except the allegation as to the status of the plaintiffs being the same plaintiffs who instituted the original action; it is denied that the plaintiffs are entitled to maintain a class action as against these State defendants.

(4) Answering the allegations of Paragraph IV, these State defendants have nothing to do with the defendants named as the Charlotte-Mecklenburg Board of Education and the individual members thereof, and, therefore, are not required to answer the allegations of subparagraph (a) of Paragraph IV of the Complaint; it is alleged, therefore, that the duties of North Carolina State Board of Education and of Dr. A. Craig Phillips are fixed by State statutes, and, therefore, the allegations of subparagraphs (b) and (c) are denied.

(5) The allegations of Paragraph V are admitted.

(6) The allegations of Paragraph VI are admitted.

(7) Answering the allegations of Paragraph VII, these State defendants allege that the same relate to a motion for further relief filed against the Charlotte-Mecklenburg Board of Education, hearings on same, orders to submit plans of desegregation and matters with which these State defendants are not concerned, and these State defendants allege that they are not required to answer said Paragraph VII.

*Answer of the Defendants, the North Carolina  
State Board of Education, Etc.*

(8) The allegations of Paragraph VIII of the Complaint relate to matters with which these State defendants are not concerned and of which they have no knowledge or information sufficient to form a belief as to the truth of same, and as to these State defendants the allegations of said paragraph are, therefore, denied.

(9) Answering the allegations of Paragraph IX, these State defendants allege that said allegations relate to matters that these defendants are not concerned with and with which State defendants have not knowledge or information sufficient to form a belief to form the truth of same and as to these defendants said paragraph is, therefore, denied.

(10) Answering the allegations of Paragraph X, the State defendants allege that whatever appears in the orders of the Court previous to the filing of this Supplemental Complaint are matters of record, and, therefore, they are not required to answer as to same.

(11) Answering the allegations of Paragraph XI, these State defendants allege that the General Assembly of North Carolina at its Session of 1969 enacted into law an Act which is now codified as G. S. 115-176.1 and that said Act was ratified on July 2, 1969; that said Act speaks for itself as to its contents, and except as herein admitted the allegations of Paragraph XII are untrue and are denied.

(12) The allegations of Paragraph XII are untrue and are therefore, denied.

(13) The allegations of Paragraph XIII are untrue and are therefore, denied.

(14) The allegations of Paragraph XIV are untrue and are therefore, denied.

*Answer of the Defendants, the North Carolina  
State Board of Education, Etc.*

WHEREFORE, having fully answered, these State defendants pray the Court that this action as to the State defendants be dismissed, that the plaintiffs take nothing by their action as to these State defendants and that the State defendants have and recover their costs to be taxed by the Clerk of this Court.

/s/ ROBERT MORGAN  
Attorney General of North Carolina

/s/ RALPH MOODY  
Deputy Attorney General

/s/ ANDREW A. VANORE, JR.  
Staff Attorney

P. O. Box 629  
Justice Building  
Raleigh, North Carolina 27602



**Order dated August 15, 1969****PRELIMINARY SUMMARY**

Pursuant to this court's June 20, 1969 order, the defendants submitted on July 29, 1969 an amended plan for desegregation of the Charlotte-Mecklenburg schools, including a highly significant policy statement accepting for the first time the Board's affirmative constitutional duty to desegregate students, teachers, principals and staffs "at the earliest possible date." On August 4, 1969, a report was filed in connection with the plan. A hearing was conducted on August 5, 1969. The plan is before the court for approval.

Because the schools must open September 2, and because the Board's plan includes both substantial action and genuine assurance of sustained effort toward prompt compliance with the law of the land, the plan of operation, for 1969-70 only, is approved and as indicated below, the defendants are directed to prepare and file by November 17, 1969, detailed plans and undertakings for completion of the job of desegregating the schools effective in September, 1970.

**THE AMENDED PLAN—AND ITS RECEPTION**

The plan proposes, among other things, to close seven old all-black inner-city schools and to assign their 3,000 students to various outlying schools, now predominantly white, mostly in high rent districts.

This technique of school closing and reassignment has been employed in dozens of school districts to promote school desegregation. It is not original with the local School Board.

The school closing issue has provoked strident protests from black citizens and from others; evidence showed that

*Order dated August 15, 1969*

an estimated 19,000 names are listed on a petition denouncing the plan as unfair and discriminatory. The signers add their own brand of protest to that of the 21,000 whites who last May (though protesting their acceptance of the principles of desegregation) raised a "silk-stockings" community outcry against bus transportation except to schools of individual choice. Another 800 white Paw Creek petitioners have joined in protest against a part of the plan under which some 200 fifth and sixth grade pupils would be assigned to re-opened Woodland, a new unused (and formerly black) school. Comment from people who have not studied the evidence tends to ignore the law—the reason this question is before a *court* for decision—and to concentrate on public acceptance or what will make people happy. A correspondent who signs "Puzzled" inquires:

"If the whites don't want it and the blacks don't want it, why do we have to have it?"

The answer is, the Constitution of the United States.

**THE CONSTITUTION—THE LAW OF THE LAND—REQUIRES  
DESEGREGATION OF PUBLIC SCHOOLS**

North Carolina reportedly refused to ratify the United States Constitution until the Bill of Rights had been incorporated into it. The Fourteenth Amendment to that Constitution, now part of the Bill of Rights, guarantees to all citizens the "equal protection of laws." In *Brown v. Board of Education*, 347 U. S. 483 (1954), 349 U. S. 294 (1955), the Supreme Court held that racial segregation in public schools produces inferior education and morale, restricts opportunity for association, and thus violates the equal protection guaranty of the Constitution and is unlawful. In *Green v. New Kent County School Board*, 391

*Order dated August 15, 1969*

U. S. 430 (1968), and two other simultaneous unanimous decisions, the Supreme Court held that school boards have the *affirmative duty* to get rid of dual school systems, to eliminate "black schools" and "white schools," and to operate "just schools." The Court said:

"The burden on a school board today is to come forward with a plan that promises realistically to work and promises realistically to work *now*." (Emphasis on the word "*now*" was put in the text by the Supreme Court.)

For years people of this community and all over the south have quoted wistfully the statement in *Briggs v. Elliott* by Judge John J. Parker (who at his death was one of my few remaining heroes) that though the Constitution forbids segregation it does not require integration. Passage of time, and the revelation of conditions which might well have changed Judge Parker's views if he had lived, have left Judge Parker's words as a landmark but no longer a guide. The latest decision on this subject by the Fourth Circuit Court of Appeals (which is the court that first reviews my actions) contains this statement:

"The famous *Briggs v. Elliott* dictum—adhered to by this court for many years—that the Constitution forbids segregation but does not require integration, is now dead." *Hawthorne v. Lunenburg*, Nos. 13,283, 13,284, Fourth Circuit Court of Appeals, July 11, 1969.

"Freedom of choice," as this court has already pointed out, does not legalize a segregated school system. A plan with freedom of choice must be judged by the same standard as a plan without freedom of choice—whether or not the plan desegregates the public schools. The courts are concerned primarily not with the techniques of assigning

*Order dated August 15, 1969*

students or controlling school populations, but with *whether those techniques get rid of segregation of children in public schools*. The test is pragmatic, not theoretical.

**CONTINUED OPERATION OF SEGREGATED PUBLIC  
SCHOOLS IS UNLAWFUL**

The issue is one of law and order. Unless and until the Constitution is amended it is and will be unlawful to operate segregated public schools. Amending the Constitution takes heavy majorities of voters or lawmakers. It is difficult to imagine any majority of Supreme Court, of Congress or of popular vote in favor of changing the Constitution to say that public school pupils may lawfully be kept in separate schools because they are black. A community bent on "law and order" should expect its school board members to obey the United States Constitution, *and should encourage them in every move they make toward such compliance*. The call for "law and order" in the streets and slums is necessary, but it sounds hollow when it issues from people content with segregated public schools.

*The questions is not whether people like desegregated public schools, but what the law requires of those who operate them.*

**THE DUTY TO OBSERVE THE CONSTITUTION AND DESEGREGATE THE SCHOOLS CANNOT BE REDUCED OR AVOIDED BECAUSE OF SOOTHING SAYINGS FROM OTHER GOVERNMENT OFFICIALS NOR OUTCRIES FROM THOSE WHO WANT THE LAW TO GO AWAY.**

The rights and duties of the parties to this suit are in this court for decision according to *law*—not according to HEW guidelines or public clamor. The court and the school board are bound by the Constitution. *So are the legislative and executive branches of government*. No one in Washing-

*Order dated August 15, 1969*

ton or Raleigh or local government is above or beyond the Constitution. None have power to change it except by lawful means. None have *or claim* the power to interfere with the courts in cases like this one. The malleable HEW "guidelines" put out by the President's administrator for educational affairs, and dubious inferences from statements of other officials, however highly placed, are irrelevant to the constitutional rights of the parties in this case. Also irrelevant are soothing sayings of the Vice President (who has the duty in this area) to black-tie political audiences, and the not-so-soothing sayings of citizens who erroneously talk as if the school segregation issue were a simple matter of political pressure and short-term public opinion. As for the Attorney General of the United States, he has just filed the biggest desegregation suit of all—*against the whole State of Georgia!* Segregation of children in public schools, whether they be black or white, and regardless of whether they do or don't want to stay apart, is unlawful. As the Supreme Court said in *Brown II*:

"... the vitality of these constitutional principles can not be allowed to yield simply because of disagreement with them."

**THE SCHOOL BOARD'S NEW PLAN REPRESENTS SUBSTANTIAL PROGRESS.**

Against this background the Board's new plan is reviewed:

1. The most obvious and constructive element in the plan is that the School Board has reversed its field and has accepted its affirmative constitutional duty to desegregate pupils, teachers, principals and staff members "at the earliest possible date." It has recognized that white people

*Order dated August 15, 1969*

live should not control where they go to school nor the quality of their education, and that transportation may be necessary to comply with the law. It has recognized that easy methods will not do the job; that rezoning of school lines, perhaps wholesale; pairing, grouping or clustering of schools; use of computer technology and all available modern business methods can and must be considered in the discharge of the Board's constitutional duty. This court does not take lightly the Board's promises and the Board's undertaking of its affirmative duty under the Constitution and accepts these assurances at face value. They are, in fact, the conclusions which necessarily follow when any group of women and men of good faith seriously study this problem *with knowledge of the facts of this school system and in light of the law of the land.*

2. In the second place, by the following actions the Board has demonstrated its acceptance of its stated new policies:

a) The desegregation of faculties and the non-racial reassignment of principals and employees from newly closed schools. In the formerly all-black faculties the Board has dramatically exceeded its goal. It is assumed by the court that this process of faculty desegregation will continue and that the goal for 1970-71 will be that faculties in all schools will approach a ratio under which all schools in the system will have approximately the same proportion of black and white teachers.

b) The closing of seven schools and the reassignment of 3,000 black pupils to schools offering better education.

*Order dated August 15, 1969*

c) The reassignment of 1,245 students from several overcrowded primarily black schools to a number of outlying predominantly white schools.

d) The announced re-evaluation of the program of locating and building and improving schools, so that each project or site will produce the "greatest degree of desegregation possible."

e) The Board correctly and constructively concluded that the so-called "anti-bussing law" adopted by the General Assembly of North Carolina on June 24, 1969, does not inhibit the Board in carrying out its constitutional duties and should not hamper the Board in its future actions. Leaving aside its dubious constitutionality (if it really did what its title claims to do) the statute contains an express exception which renders it ineffectual in that it does not prevent "any transfer necessitated by overcrowded conditions or other circumstances which in the sole discretion of the School Board require reassignment."

f) The elimination without objection of the former provision which had the effect of inhibiting transfer rights of black would-be athletes.

g) Quite significantly, the Board calls upon the Planning Board, the Housing Authority, the Redevelopment Commission and upon real estate interests, local government and other interested parties to recognize and share their responsibility for dealing with problems of segregation in the community at large as well as in the school system.

h) The proposals for programs of "compensatory education" of students, and for teacher orientation and



*Order dated August 15, 1969*

exchange of activities among black and white students. The court assumes that these somewhat vaguely stated ideas will become implemented with concrete action.

3. *The Seven School Problem.*—The Board plan proposes to close Second Ward High School, Irwin Avenue Junior High School and five inner-city elementary schools (five of which were already marked for abandonment) and to reassign their 3,000 students to outlying white schools. This part of the plan has struck fire from black community leaders and some other critics. Counsel for the plaintiffs contend that it puts an unconstitutional and discriminatory burden upon the black community with no corresponding discomfort to whites. One spokesman for a large group of dissenting and demonstrating black citizens was allowed to express his views at the August 5, 1969 hearing. Threats of boycotts and strikes have been publicized.

This part of the plan is distasteful, because all but 200\* of the students being reassigned *en masse* are black. It can legitimately be said and has been eloquently said that this plan is an affront to the dignity and pride of the black citizens. Pride and dignity are important. If pride and dignity were all that are involved, this part of the plan ought to be disapproved. The court, out of forty-year memory of four years of transportation on an unheated Model-T school bus thirteen miles each way from a distant rural community to high school in a "city" of 4,000, is fully aware how alien and strange are the sensations experienced by a school child who is hauled out of his own community and into a place where the initial welcome is uncertain or cool.

---

\* The 200 students being reassigned from Paw Creek to Woodland are white.



*Order dated August 15, 1969*

However, this part of the plan is not compulsory. Students who want to remain in the comfort of their familiar area may elect to attend the Zebulon Vance School instead; alternatives are also provided for the junior high school students.

Moreover, as one of the attorneys remarked at the first hearing in a discussion about reassignments and school busses: "The question is really not one of 'bussing' but whether what the child gets when he gets off of the bus is worth the trouble."

I personally found the better education worth the bus trip.

Despite their undoubted importance, pride and dignity should not control over the Constitution and should not outweigh the prospects for quality education of children. The uncontradicted evidence before the court is that segregation in Mecklenburg County has produced its inevitable results in the retarded educational achievement and capacity of segregated school children. By way of brief illustration a table follows showing the contrasting achievements of sixth grade students in five of the closed schools (Bethune, Fairview, Isabella Wyche, Alexander Street and Zeb Vance) and in five of the schools to which black students are going to be transferred:

*Order dated August 15, 1969*

**AVERAGE ACHIEVEMENT TEST SCORES**

**SIXTH GRADE—1968-69**

	<i>SP.</i>	<i>LANG.</i>	<i>ACM. (Math)</i>	<i>WM (Word Meaning)</i>
(Bethune	45	34	41	41
(Ashley Park	61	62	56	58
(Fairview	46	38	42	39
(Westerly Hills	61	61	52	57
(Isabella Wyche	41	34	40	38
(Myers Park	80	84	58	73
(Alexander Street	45	38	34	40
(Shamrock Gardens	57	62	53	56
(Zeb Vance	38	34	39	42
(Park Road	71	75	58	66

This alarming contrast in performance is obviously not known to school patrons generally.

It was not fully known to the court before he studied the evidence in the case.

It can not be explained solely in terms of cultural, racial or family background without honestly facing the impact of segregation.

The degree to which this contrast pervades all levels of academic activity and accomplishment in segregated schools is relentlessly demonstrated.

Segregation produces inferior education, and it makes little difference whether the school is hot and decrepit or modern and air-conditioned.

It is painfully apparent that "quality education" can not live in a segregated school; *segregation itself is the greatest barrier to quality education.*

As hopeful relief against this grim picture is the uncontradicted testimony of the three or four experts who

*Order dated August 15, 1969*

testified, some for each side, and the very interesting experience of the administrators of the schools of Buffalo, New York. The experts and administrators all agreed that transferring underprivileged black children from black schools into schools with 70% or more white students produced a dramatic improvement in the rate of progress and an increase in the absolute performance of the less advanced students, without material detriment to the whites. There was no contrary evidence. (In this system 71% of the students are white and 29% are black.)

Moreover, the Board's announced policy and the uncontradicted testimony of the superintendent show that serious arrangements are being made to welcome, rather than rebuff, the transferees into all school activities. This is something new and important.

No legal authority is cited that the Constitution prohibits transport of consenting black children from an inferior educational environment into a better educational environment for the purpose of complying with the constitutional requirement of equal protection of laws.

The choice of how to do the job of desegregation is for the School Board—not for the court.

The Board has wide discretion in choosing methods; many effective methods are described in the evidence; the court's duty is simply to pass on the legality of the Board's actions. It appears to the court that the improvement in the education of 4,200 school children is the one most obvious result of the Board's plan of action for 1969-70, and that this is more important constitutionally than other considerations which have been advanced.

It is not the intention of this court to endorse or approve any future plan which puts the burden of desegregation primarily upon one race. However, there is not time before September 2, 1969 to do a complete job of reassign-

*Order dated August 15, 1969*

ing pupils; the plan is a step toward more complete compliance with the law; the court reluctantly votes in favor of the 4,200 school children and approves the plan on a one-year basis.

**THE MAJOR TASK LIES AHEAD THIS FALL**

The big job remains to be done. After implementation of the current plan, further large scale faculty transfers will still be necessary. Sixteen years after *Brown v. Board of Education*, some thirteen thousand school children will remain in black or nearly all-black schools. Most white students will remain in substantially all-white schools. The failure of the plan to deal with those problems of course can not be approved. The failure of the plan to include a time table for the performance of specific elements of the program of course can not be approved, *Felder, et al. v. Harnett County Board of Education, et al.*, 409 F. 2d 1070 (4th Cir., 1969). These matters must be covered by specific instructions to the Board.

All findings of fact in the previous orders of April 23, 1969, and June 20, 1969, and the supplemental findings of June 24, 1969, are incorporated herein to the extent that they are consistent with the findings, conclusions and orders herein reached and given. All evidence at all hearings is considered in reaching these conclusions.

**ORDER**

1. The policy statement of the Board is approved.
2. The faculty desegregation program is approved.
3. The plan to desegregate pupils by closing seven all-black schools and assigning their pupils to outlying white

*Order dated August 15, 1969*

schools is approved only (1) with great reluctance, (2) as a one-year, temporary arrangement, and (3) with the distinct reservation that "one-way bussing" plans for the years after 1969-70 will not be acceptable. If, as the school superintendent testified, none of the modern, faculty-integrated, expensive, "equal" black schools in the system are suitable for desegregation now, steps can and should be taken to change that condition before the fall of 1970. Unsuitability or inadequacy of a 1970 "black" school to educate 1970 white pupils will not be considered by the court in passing upon plans for 1970 desegregation. The defendants contended and the court found in its April 23, 1969 order that facilities and teachers in the various black schools were not measurably inferior to those in the various white schools. It is too late now to expect the court to proceed upon an opposite assumption.

4. The plan to reassign 1,245 students from presently overcrowded black schools is approved.

5. Reassignment of the Paw Creek students to Woodland is approved.

6. The proposals of the Board for restructure of attendance lines; for consideration of pairing and grouping schools; for review of the construction programs; and for support programs, student exchange and faculty orientation are approved in principle, although for lack of specific detail and time table they are not approved as presented.

7. The Board is directed to prepare and present by November 17, 1969, the following:

(1) Plan for complete faculty desegregation for 1970-71.

*Order dated August 15, 1969*

(2) Plan for student desegregation for 1970-71, including making full use of zoning, pairing, grouping, clustering, transportation and other techniques, complete with statistics and maps and other data showing precisely what (subject to later movement of pupils) the assignment of pupils and teachers will be for the year 1970-71, having in mind as its goal for 1970-71 the complete desegregation of the entire system to the maximum extent possible. (The assumption in the Board's report that a school is desegregated when it has as many as 10% of a minority race in its student body is not accepted by the court, and neither the Board nor the court should be guided by such a figure.) "Possible" as used here refers to educational—not "political"—possibility. If Anson County, two-thirds black, can totally desegregate its schools in 1969, as they have now done, Mecklenburg County should be able to muster the political will to follow suit.

(3) A detailed report showing, complete with figures and maps, the location and nature of each construction project proposed or under way, and the effect this project may reasonably be expected to have upon the program of desegregating the schools.

8. Since a mid-city high school may prove most desirable, the Board is directed pending further orders of court not to divest itself of any land, options, rent arrangements or other access to or control over real estate which it may now have in the Second Ward area.

9. Jurisdiction is retained.

This the 15th day of August, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Order dated August 29, 1969**

The School Board's amended plan for desegregation of the Charlotte-Mecklenburg schools was approved by order of court dated August 15, 1969. The Board has now tendered a modification to this plan which was filed today, August 29, 1969.

The modification relates to the facilities to be provided for those black children whose parents exercise freedom of choice to attend a black elementary school in the inner city instead of attending the white schools listed in the July 29, 1969 plan which has already been approved by the court.

The amendment calls for using the building of former Irwin Avenue Junior High School with certain minor renovations, instead of Zeb Vance School, and a limit of six hundred students upon those who would be admitted to this program at Irwin Avenue School. This part of the motion to amend is approved. The choice of building, *per se*, is a matter for the School Board, not the court.

The amendment proposes that the Irwin Avenue School would be operated "as an innovative school." The court does not know what this means. If by this phrase is meant that anything will be done to make this school more attractive to the black students than the black schools they have been attending, then the program will constitute the location and use of a school facility for the purpose of promoting segregation which by previous decisions of this and other courts the defendants have been fully advised is unconstitutional. *Felder, et al. v. Harnett County, North Carolina*, 409 F.2d 1070 (4th Circuit, 1969) (decided April 22, 1969), and cases cited therein. The addition of "innovations" at Irwin Avenue School will not be approved by the court unless these "innovations" have been arranged and

*Order dated August 29, 1969*

provided for all the black students who transfer to white schools under the July 29, 1969 plan of the Board previously approved. The phrase "innovative" may refer to what the Board has heretofore called "compensatory education." The court has not yet been advised of any performance by the Board in line with the undertaking in its July 29, 1969 plan to provide "compensatory education" for pupils who lag behind their classmates in academic achievement. Unless and until the court can be informed and satisfied that this "compensatory education" is provided in the other schools, the court is of the opinion that providing it in the Irwin Avenue School would set up a magnet to attract black children away from desegregated assignments and therefore on the present record at least that part of the plan is disapproved.

The proposal to provide transportation for any of the students attending Irwin Avenue School is expressly disapproved. The effect of providing transportation is to subsidize at tax payers' expense those who are actively seeking to defeat the constitutional mandate to desegregate the schools. No authority is advanced or suggested to justify such a flagrant violation of the law, and none has been imagined by the court. The Board is expressly restrained from and enjoined against providing transportation in any form to any student in the system, black or white, which may or might enable him to travel any part of the distance from his home to or from any school elected by or for him under "freedom of transfer" or "freedom of choice," except that the Board may provide transportation as previously ordered by this court to those students who elect to transfer or who are transferred by the Board from a school in which their race is in a majority to a school in which their race



595a

*Order dated August 29, 1969*

is in the minority. As this court pointed out before, bus transportation has too long been used as a tool to promote segregation. The year 1969 is too late in the day to start using this tool for that purpose in new situations.

This the 29th day of August, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Motion for Further Relief and for Show Cause****(Filed September 2, 1969)**

Plaintiffs, by their undersigned counsel, respectfully move the Court for further relief and for a show cause order in the above styled cause and, as grounds therefore, show the Court the following:

1. On August 15, 1968, the Court entered an Order approving an amended plan of desegregation for the Charlotte-Mecklenburg Public Schools filed by the defendant Board. The plan provided generally (1) for the closing of seven all-black schools, five elementary schools, one junior high school and one senior high school; (2) the transfer of these students to previously all white schools; (3) the transfer of some black students from overcrowded black schools to previously all-white schools; (4) the restructuring of attendance zones; (5) reviewing the construction program; (6) the initiation of a compensatory education plan to assist pupils who are behind their classmates in academic achievement; (7) an increase in desegregation of teachers and school personnel with a more extensive program of in-service training for such personnel; (8) the grouping of schools for student exchange; and a policy statement with respect to the Board's obligation to affirmatively desegregate schools and to provide equality of educational opportunities for all students. The closing of the seven black schools and the reassignment of some black students from overcrowded black schools would mean an increase of 4125 black students in integrated schools. The Board proposed to provide transportation for the black students who were being reassigned.

In approving the plan, the Court noted its objection to one-way desegregation—imposing the sole burden of desegregation on black students and parents. See also *Brice*

*Motion for Further Relief and for Show Cause*

v. *Landis*,—F. Supp.—(N.D. Calif., Civ. No. 51805, Aug. 8, 1969). The Court stated however, that in view of the other steps being taken by the Board and the apparent commitment of the Board to now carry out its obligations under the Constitution the Board's plan warranted approval, at least for one year. The Court directed the Board to submit a plan for complete desegregation of the system on or before November 17, 1969.

2. Plaintiffs are now advised that the defendants have failed to implement the plan approved by the Court and in fact have taken steps to impede and limit the desegregation ordered.

(a) The plan approved by the Court retained freedom of choice for students to transfer out of schools after initial assignments to other schools. Zeb Vance Elementary School was designated as a black school to which students in the closed elementary schools could transfer if they elected not to attend integrated schools. Plaintiffs objected initially to this feature of the plan because of the patent inadequacy of this school facility. The Board now proposes to reopen Irwin Avenue School in lieu of Zeb Vance Elementary School and in addition to provide transportation<sup>1</sup> and compensatory education for the students at this school. Plaintiffs have no objection to the reopening of Irwin rather than Zeb Vance if freedom of choice is to continue since Irwin is obviously a better facility.<sup>2</sup> Plaintiffs submit, however,

---

<sup>1</sup> Similar transportation is provided for white students who reside in Negro or predominantly Negro school zones who elect under freedom of choice to transfer out to white or predominantly white schools such, for example, as white students transferring from Amay James, Marie G. Davis, Hawthorne and Piedmont.

<sup>2</sup> The Court on August 29, 1969 entered an Order approving of this proposed change but enjoined the Board from providing transportation and compensatory education.

*Motion for Further Relief and for Show Cause*

that the operation of this school as well as the other racially segregated schools in the system continues to violate the constitutional mandate to desegregate. Freedom of choice, however, has served and has been utilized by defendants as a means to effectively limit and impede the desegregation of students anticipated by the Court. Of the 1,235 students affected by the closing of the black elementary schools, a substantial portion have elected to attend Irwin or other all black elementary schools. A substantial number of the junior high and senior high school students have also elected to attend all-black schools. Black students have quite appropriately objected to one-way desegregation and have opted, under freedom of choice, not to shoulder the complete burden of desegregation. A fact which is more important, however, is that defendants have failed to institute programs and policies to accommodate those students who choose to remain in the intergrated schools. When all practices of the Board are considered, freedom of choice has not been free but patently illusory. See *Green v. County School Board of New Kent County*, 391 U.S. 430, 20 L. ed. 2d 716; *Monroe v. Board of Commissioners*, 391 U.S. 450, 20 L. ed. 2d 733; *Coppedge v. Franklin County Board of Education*, 372 F.2d 410 (4th Cir. 1968); *United States v. Jefferson County Board of Education*, 372 F. 2d 836 (5th Cir. 1967), aff'd en banc (5th Cir. 1968). The elimination of freedom of choice in this system would promote integration of both black and white schools. No administrative or other constitutionally acceptable reason has been shown for retention of this practice. It should be eliminated now. *Green v. County School Board of New Kent County*, supra.

(b) Not one step has been taken by the Board to implement the plan and Court Order with respect to reassigning

*Motion for Further Relief and for Show Cause*

the black students now in overcrowded black schools. The Court viewed this step by the Board as an indication of its sincerity to desegregate. We are now told that the Board will move some children in the midst of the school year as mobile units are removed and secured although there are spaces available to accommodate some students now. Plaintiffs are advised that none of the children have been advised of pending reassignment. It would be unconscionable to pick up large blocks of black students in the midst of the school year and reassign them to white schools. Despite the order, despite the promises, the Board has done nothing to implement this provision for the beginning of the 1969-70 school year.

(c) The Board has failed to implement the provision of the Order requiring compensatory education for the under-achievers. Subsequent to the Order, the Board proposed to provide such program for the black students who remained at the all-black Irwin School. Nothing, however, has been done in this regard for the black students who have elected to integrate in the previously all-white schools. What the Board proposes is to penalize those students who would integrate while providing compensatory programs for those who remain. The Board should be specifically directed to provide these programs for all students in all schools.

3. School is scheduled to open on September 2, 1969. The Court will not be able to review compliance with its Order in time to insure its complete implementation before the beginning of school. Clearly, however, the anticipated substantial steps toward desegregation (see Order of April 23, 1969) have not been achieved. Nor has the Board taken even the minimal steps to desegregate as directed by the Court. Constitutional rights are involved here. Plaintiffs are entitled to effective relief now.

*Motion for Further Relief and for Show Cause*

**WHEREFORE, plaintiffs respectfully pray:**

(a) That this matter be reopened for consideration of a plan of desegregation for the 1969-70 school year.

(b) That the defendants be enjoined to adopt and to implement a plan for the 1969-70 school year which will completely desegregate the schools. Plaintiffs pray that the order specifically enjoin the defendants from placing the primary or sole burden of desegregation upon black students and parents.

(c) That an order be issued directing the defendants to show cause why each of them should not be held in contempt for failing to implement the Court's Order of August 15, 1969.

**Respectfully submitted,**

**/s/ J. LEVONNE CHAMBERS**

**CONRAD O. PEARSON**

**203½ East Chapel Hill Street  
Durham, North Carolina**

**CHAMBERS, STEIN, FERGUSON &  
LANNING**

**216 West Tenth Street  
Charlotte, North Carolina**

**JACK GREENBERG**

**JAMES M. NABRIT III**

**10 Columbus Circle  
New York, New York**

***Attorneys for Plaintiffs***

**Order dated October 10, 1969**

On April 23, June 20 and August 15, 1969, orders were entered directing the defendants to submit a plan and a time table for the desegregation of the Charlotte-Mecklenburg schools, to be completed by the fall of 1970. Nearly six months after the original order, faculty desegregation is well along and there have been a number of substantial improvements in the stated policies of the Board, including the stated assumption of duty by the Board to desegregate the schools "at the earliest possible date." Limited steps have been taken toward compliance with the pupil desegregation provisions of that original order. However, the major part of the job remains undone, and no plan for desegregation of the entire system has apparently been voted on by the Board.

The latest order set November 17, 1969, as the revised date for defendants to file a complete plan and time table. Defendants have now filed a 15-page motion and supporting affidavit asking the court to extend by another two and one-half months, to February 1, 1970, the time for compliance with the orders. Plaintiffs oppose the extension.

The justification advanced for this delay is that they have hired a systems analyst to re-draw attendance lines, and that the three months between August 15 and November 17 are not enough time to program a computer and prepare a plan.

It would be a happy day if the job could be turned over to a computer. A computer, if programmed objectively, could produce objective results; all could blame the machine (in addition to the court) for any unpleasant decisions. Also, the court would like to avoid unnecessary pressure on the school staff and administrators.

However, the information thus far available is inadequate to justify the extension. Computers are for time-saving,

*Order dated October 10, 1969*

not delay. The computer work was estimated by the Board's chosen systems analyst, Mr. Weil, to require ninety man days of work. He proposes to consume ninety calendar days with this job! The Board's motion says that their decisions about construction and location of 21 building projects (involving many millions of dollars) are to be held up pending development of the plan. The school budget approaches fifty million dollars. The question fairly arises why the Board should not employ or assign more than one person at a time to feed the computer. Mr. Weil's original plan, which is in evidence, was prepared in a very few days. The court has on file also three or four other plans, including at least one which local school officials say is educationally and technically feasible, which were prepared in a few days each. The use of a computer does not appear to justify the delay.

Moreover, computers cannot make political nor legal decisions; they react to what is fed into them; and the request for postponement leaves the court to speculate over what will be fed into the computer. The motion does not say that Mr. Weil has been instructed by the Board to frame a plan to desegregate the schools; his commission, by a Board committee only, is limited to re-drawing attendance lines; the vague references in the Board's motion to his instructions as to travel limitation and specified school capacities and desirable racial balance permit the inference, in fact, that his mission could be *re-segregation* of much of the system.

The motion also contains no commitment on the part of the Board to adopt any plan that the computer may produce; it gives no information about the Board's intentions as to other desegregation methods it will use; and it promises no *result* from the delay except *consideration* by the



*Order dated October 10, 1969*

Board of a computer plan for re-arranging school lines.

The motion is preoccupied with one *method*, and silent about *results*.

Before passing on the motion, the court has a duty to discover what the Board has accomplished since its July 29 promises were made, and whether the extra time will promote genuine progress toward compliance with the Constitution or whether it will just be time lost.

The Board is therefore directed to file with the court by October 29, 1969, the following information:

1. A full statistical report on the results of the closing of the inner-city schools and where the 4,200 black pupils the Board proposed on July 29 to transfer to white schools are actually going to school as of October 10, 1969.

2. The figures regarding the effect of freedom of transfer on the desegregation proposed in the July 29, 1969 plan for closing inner-city schools and transferring their students.

3. A report on freedom of choice or freedom of transfer: How many children, by school or location and race, chose to transfer out of and into the various schools for the 1969-70 year.

4. Full reports on the current numbers and races of the children and teachers in the system, school by school, with percentages of each race for each school.

5. A report on the children being provided bus transportation, school by school.

6. A description of what has been done to provide the compensatory education programs proposed in the July 29 plan and policy statement.

*Order dated October 10, 1969*

7. A copy of all September and October, 1969, reports of the Board to the Department of Health, Education and Welfare.

Unless the Board has made the hard decisions needed to desegregate the schools, the time spent on a computer plan may well be just more time lost, and delaying decision may simply compress into fewer months next year the decisions that should have already been made. Therefore, in addition to the above, the Board is directed to answer by October 29, 1969, the following questions:

1. What, in verbatim detail, are the instructions that have been given to Mr. Weil?

2. What is Mr. Weil's assigned mission or goal?

3. What areas of the district is he directed to include in his program of re-drawing attendance lines?

4. What areas, if any, is he directed to exclude?

5. What schools will his program affect?

6. Will pairing, grouping or clustering of schools be used by the Board as needed to supplement the computer plan?

7. Will the Weil program of re-drawing attendance lines produce desegregation of all the schools by September, 1970?

8. If the Weil program does not produce desegregation of all the schools by September, 1970, what does the Board plan to do to produce that result?

9. Will any plan produced by the Weil method or any other re-drawing of attendance lines desegregate

*Order dated October 10, 1969*

the schools if unrestricted freedom of transfer or freedom of choice is retained?

The value of the answers to these nine questions is substantially dependent on whether they are made by vote of the full Board or by non-voting representatives such as attorneys or other agents.

Pending receipt of the above information, the court will defer action on the request for time extension. Action will also be deferred for the present on the motions which have been filed by the plaintiffs which include requests for abolition of freedom of choice and appointment of an outside expert to devise a plan in default of Board action.

This the 10th day of October, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Defendants' Response to Motion for Further Relief**  
**(Filed October 11, 1969)**

The defendants, The Charlotte-Mecklenburg Board of Education and the individual Board members, answering the motion of the plaintiffs filed herein on the second day of September, 1969, allege and say:

1. The allegations of Paragraph 1 deal with matters and things appearing of record in this case and this defendant is not required to either admit or deny said allegations.

2-A. The order of the Court dated August 29, 1969, has disposed of the allegations contained in Paragraph 2-A and these defendants are not required to either admit or deny the same.

2-B. The allegations contained in Paragraph 2-B are denied and in further answer thereof, these defendants allege that substantial steps have been taken to implement the plan with respect to re-assigning black students now in over-crowded schools and that the record in this cause expressly discloses that the plan did not contemplate re-assignment of these students until such time as the additional mobile units were available and some students might not be re-assigned until the end of December. It is expected that all students will be re-assigned on or before October 15, 1969.

2-C. The allegations contained in Paragraph 2-C are denied.

WHEREFORE, these defendants pray the Court that the relief demanded by the plaintiffs in said motion be denied

*Defendants' Response to Motion for Further Relief*

and that these defendants have such other and further relief as it may be entitled to receive.

.....  
Brock Barkley  
814 Law Building  
Charlotte, North Carolina

.....  
William J. Waggoner  
1100 Barringer Office Tower  
Charlotte, North Carolina

# Charlotte-Mecklenburg Schools

808a

Research Report 2-'69  
and 10-'69

SUMMATION OF INTEGRATION 1955 (MARCH) AND 1968-69 (OCT. 1, '68)  
AND 1967-70 (Oct. 2, '67)

For Pupils

Professional Staff

## Schools Having Integration

For Pupils	1965 1 N + 22 W = 23 of 109 or 21%	1968 16 N + 68 W = 84 of 112 or 75%	For Staff	1965 3 N + 0 W = 3 of 109 or 3%	1968 16 N + 68 W = 84 of 112 or 75%
------------	---	--	-----------	--	--

N	1965 W	N	1968 W	N	1965 W	N	1968 W
9W	476N	1192W	6704N	5,27N	2N	131W	20N

Pupils	343N	16,446W	8697N	47,356W	143,3N	2N	374N	357W
--------	------	---------	-------	---------	--------	----	------	------

## Total Involved by Integration

Predominantly Negro Schools	10,011	Staff	149	505	51
--------------------------------	--------	-------	-----	-----	----

Predominantly White Schools	16,922	54,060	Staff	0	278
--------------------------------	--------	--------	-------	---	-----

total	17,274	63,949	Staff	149	3288
- - Pupils	or	or	or	or	or
	24% of	77% of	5% of	5% of	91% of
	72,336	83,111	3140 incl.	3140 incl.	3613 assigned
Enrolled			part assignments	part assignments	at one definite
			in schools	in schools	school

Grade	No. School	1955 Pupils		No. School	1958 Pupils		No. School	1959 Pupils		Professional Staff					
		N	M		N	M		N	M	1955	N	M	1958	N	M
1-6	72	9,364	27,696	76-	13,290	31,545	73-	13,374	31,522	377+	1171½	478	1329	499	1344
7-9	17	2,475	11,804	21	5,934	14,741	20-	6,188	15,191	111-	533	228	706	232	694
10-12	8	1,625	10,677	11	4,377	12,313	10-	4,472	12,808	65	479½	178	644	194	666
Other	97	13,464	50,177	108-	23,601	58,599	103-	24,024	59,521	553½	2184	884	2679	925	2704
	12	6,877	1,818	640	271	4+	656	307		323½	79	23	27	22	30
: Regn. + Trainable															
1-4	1	360								15½					609a
1-7	2	431	207							17	9½				
1-9	3	729	1611							32	68				
5-9	1	505								25½					
1-12	3	2400								113½					
7-12	2	2452								120	1½				
Total	109	20,341	51,995	112	24,241	58,870	107	24,690	59,828	877	2263	907	2706	947	2734
										Include Part-time		Not Include Part-time		Among teachers assigned to more than one school	

106

Professional Staff



School	1965 Pupils				1968-69 Pupils				1969-70 Pupils				Professional Staff			
	N	%	M	V	N	%	M	V	N	%	M	V	N	%	M	V
Elementary				(other)				(other)				(other)				(other)
Braid Hills	520	100%	504	3	472	77%	42	3	472	77%	42	3	20.7	100%	20	100%
Eastover	5	1%	49	580	42	7%	559		42	7%	559		27.1	1%	24	4%
Elizabeth	5	1%	448	194	366	59%	151		366	74%	151		22.9	2%	21	7%
Enderly Park	702	100%	368	374	3	1%	371		3	1%	371		14.9	1%	15	6%
Fairview													28.0	100%	19	100%
First Ward	473	100%	749		820	100%	0		820	100%	0		22.8	100%	30	100%
J. M. Gunn	696	100%											33.6	100%		
Nickery Grove			80	530	70	12%	533		70	12%	533		21.7	1%	23	7%
Hidden Valley					0	0%	1100		0	0%	1100		14.0	1%	55	35%
Highland	2	1%	273	324	69	15%	305		69	15%	305		14.0	1%	14	7%
Maple			18	261	13	5%	228		13	5%	228		14.7	2%	11	15%
Montersville			162	560	154	12%	535		154	12%	535		22.9	2%	25	17%
Huntington Farms			7	695	7	1%	603		7	1%	603		15.1	1%	26	4%
Idlewild			2	521	56	7%	597		56	7%	597		23.9	1%	22	4%
Amey Jones	360	100%	477	1	473	77%	3		473	77%	3		15.5	100%	19	100%
Ada Jenkins	431	100%											17.0	100%		
Lakeview			269	147	362	75%	102		362	75%	102		18.5	14%	5	7%
Lensdown			817	758	75	9%	802		75	9%	802		23.9	1%	30	3%
Lincoln Heights	783	100%			711	100%	0		711	100%	0		17.6	2%	26	7%
Long Creek			250	466	267	36%	468		267	36%	468		17.6	2%	26	7%
Matthews			(1-6)		86	10%	802		86	10%	802		39.7	1%	32	3%
Narry Oaks			538	469	0	0%	442		0	0%	442		21.9	1%	19	5%
Nidwood			560	522	11	2%	477		11	2%	477		24.9	2%	21	9%
Montclair			720	722	0	0%	718		0	0%	718		29.1	1%	27	4%
Morgan	305	100%											14.9	100%		
Irwin Ave. (Elem)					315	100%	0		315	100%	0				10	67%

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70 \*

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff					
	N	%	N	N	%	N	N	%	N	1965	1968-69*	1969-70*	1965	1968-69*	1969-70*
Elementary															
Myers Park	820	82%	575	23	4%	543	22	5%	456	32.2	4%	23	3	1%	22
Myers Street										100%					
Nations Ford			513	63	10%	585	47	6%	681	2%	4%	25	6	1%	22
Newell			463	73	15%	423	74	17%	438	2%	5%	18	3	1%	17
Oakdale			402	72	17%	480	69	14%	517	2%	5%	21	6	2%	18
Oakhurst			548	2	0%	615	5	1%	616	2%	4%	23	4	1%	20
Oaklawn	666	100%		650	100%		613	100%	0	26.0	25	2	11	92%	15
Olds Providence				10	1%	434	80	14%	512		6%	17	5	2%	20
Park Road			583			551	44	7%	548	2%	5%	21	7	3%	16
Pear Creek			793	63	7%	861	27	4%	609	2%	3%	31	5	2%	18
Pineville			364	168	32%	363	146	28%	375	2%	5%	21	4	1%	19
Pinewood			719			707	0	0%	674	2%	1%	26	4	1%	22
Plaza Road			400	99	17%	409	88	20%	362	2%	5%	21	4	1%	17
Ross Road			442	2	0%	777	1	0%	815	2%	2%	27	5	1%	24
Sedgefield	3	1%	526	7	1%	545	3	1%	548	2%	2%	20	4	1%	19
Plato Price	505	100%		5	1%	598	31	5%	617	25.4	100%				
Selwyn			531							25.4	100%				
Seversville	96	100%	229							25.4	100%				
Shamrock Gardens			536							25.4	100%				
Sharon			591							25.4	100%				
Stearmont			481	25	3%	713	25	3%	712	25.4	100%				
Steensville Road			650	296	32%	534	33	37%	522	25.4	100%				
Stearmont Creek			222	12	1%	531	5	1%	509	25.4	100%				
Stearmont										25.4	100%				

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70 \*

School	1965 Pupils				1968-69 Pupils				1969-70 Pupils				Professional Staff					
	N		%		N		%		N		%		1965		1968-69*		1969-70*	
	Elementary		N (other)		N (other)		N (other)		N (other)		N (other)		N		N		N	
483 Torrence-Lytle	1005	67%											46.1	100%				
Tryon Hills	324	67%	241	52%	245	52%	322	46%	166	46%	166	46%	1	2%	3	4%	4	15%
Tuckaseegee	631	67%	61	10%	553	10%	58	9%	578	9%	578	9%	1	2%	1	4%	23	17%
University Park	700	100%	777	100%			825	100%	1		1		25.8	100%	30	77%	1	70%
Zeb Vance	465	100%	257	100%									19.5	100%	11	100%	23	10%
Villa Heights	23	48%	796	46%	126	46%	929	71%	88	71%	88	71%	23	27%	23	27%	23	58%
Westley Heights	214	100%			569	100%	46	8%	539	100%	539	100%	8.3	77%	1	4%	14	17%
Westerly Hills	6	2%	145	21%	293	21%	228	18%	235	18%	235	18%	1	2%	1	4%	9	17%
Willmore	1	0%	2	0%	737	100%	1	0%	748	100%	748	100%	1	2%	1	4%	6	13%
Windsor Park																		
Winterfield					689	100%	48	7%	688	100%	688	100%					6	10%
Woodland	360	100%											14.8	100%				
Woodlawn	283	100%											14.0	100%				
Isabelle Wych	383	100%	222	100%									18.6	100%	12	100%		
Child Development (Egn. Centers)																		
Davidson, #1			83	41%	117	41%	80	40%	121	40%	121	40%	3	50%	7	50%	3	30%
Pinemville, #2			166	44%	37	10%	163	77%	43	10%	43	10%	2	20%	8	20%	2	20%
Seversville, #3			174	37%	26	6%	181	90%	21	6%	21	6%	8	80%	2	20%	7	70%
Horgan, #4			188	97%	6	3%	187	97%	12	3%	12	3%						

# COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE March 6, 1965, 1968-69, and 1969-70 \*

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff													
	N	%	N	N	%	(other)	N	%	(other)	N	%	N	%	(other)	1965	N	%	(other)	1968-69	N	%	(other)	1969-70
Junior High																							
Albemarle Road				66	7%	881	63	6%	995														
Alexander		0%	577	347	3%	755	369	3%	771														
Cochrane		0%	872	76	5%	1444	79	5%	1552														
Coulwood	3	1%	574	119	14%	727	106	1%	770														
Eastway		0%	1046	3	0%	1364	61	7%	1356														
Alex. Graham		0%	1048	8	1%	1084	113	1%	1028														
Northorne	25	4%	670	492	52%	447	596	54%	472														
Irwin Ave.	785	100%		666	100%					42.7	800%												
McClintock		0%	1273	46	4%	1228	93	7%	1288														
Northwest	773	100%		932	100%		1052	100%	1	33.7	100%												
Piedmont	121	29%	291	428	71%	53	443	71%	55														
Quail Hollow		0%	766	171	1%	1261	155	2%	1421														
Randolph				272	27%	711	289	27%	710														
Ransom	9	1%	658	253	3%	586	260	32%	548														
Sedgefield	6	1%	920	189	17%	802	167	17%	809														
Smith		0%	1115		0%	1389	55	4%	1436														
Spaugh	1	0%	930	186	15%	871	287	14%	839														
Williams	752	100%		893	100%		1081	100%	0	34.9	100%												
Wilson		0%	1064	60	5%	1132	71	6%	1145														
York Rd.	(7-12) 1041	100%		727	69%	6	854	71%	9	49.9	100%												

442

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70\*

School	1965 Pupils				1968-69 Pupils				1969-70 Pupils				Professional Staff				
	N	$\epsilon_1$	M	$\epsilon_2$	N	$\epsilon_1$	M	$\epsilon_2$ (other)	N	$\epsilon_1$	M	$\epsilon_2$ (other)	N	$\epsilon_1$	M	$\epsilon_2$ (other)	
Senior High																	
East Mecklenburg																	
Garinger	2	0%	2266		155	4%	1739		227	11%	1925		6	7%	85		16
Harding		0%	1002		202	7%	2157		492	11%	2148		6	4%	102		22
Independence					169	17%	814		636	47%	720		4	5%	49		15
Myers Park	31	2%	1772		92	7%	962		135	11%	1111		6	9%	59		12
					158	5%	1855		233	12%	1767			6%	87		17
North Mecklenburg	1	0%	1155		410	27%	1109		462	25%	1185		5	1%	63		13
Olympic					259	37%	522		376	42%	512		6	11%	39		10
Second Ward	1411	14%			1139	14%	3						57	79%	3		17
South Mecklenburg	30	2%	1430		106	6%	1812		109	8%	2024		4	5%	78		17
West Charlotte	1560	14%			1569	14%			1658	14%	0		74	73%	6		58
West Mecklenburg	1	0%	1270		118	5%	1340		148	7%	1444		4	5%	73		13

## **Defendants' Report to the Court Pursuant to Order of October 10, 1969**

On October 2, 1969, the defendants, Charlotte-Mecklenburg Board of Education and the individual Board members, petitioned the Court for an extension of time in which to file its plan for faculty and student desegregation for the 1970-1971 school year. The Court deferred ruling on the defendants' motion pending submission of certain information to the Court.

1. Attached marked Exhibit "A" is statistical information on the results of closing the inner-city schools and transfers from overcrowded schools and attached marked Exhibit "B", the Court will find information on the desegregation proposal contained in the July 29, 1969 plan.

With reference to elementary schools, those students remaining in the school attendance districts, 463 blacks are attending predominantly white schools and 446 are attending predominantly black schools. Of those students remaining in the Irwin Junior High attendance district, 273 blacks are attending predominantly white schools and 229 are attending predominantly black schools. Of the students remaining in the Second Ward school district, 506 blacks are attending predominantly white schools and 169 are attending predominantly black schools.

The Board is most concerned with the lack of responses of some black students and parents in the overcrowded schools. At the present time, 73 students from Amay James are now attending predominantly white Ashley Park (27 students) and Westerly Hills (46 students). Two trainable classes were transferred from the Wilmore School to predominantly white Berryhill. The anticipated enrollment for Lincoln Heights did not materialize so that it was unnecessary to move children from this school.

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

The Board is continuing to examine new approaches in an effort to gain acceptance by the patrons of moves to relieve overcrowded schools. To this point, efforts have included written communications, meetings in the schools and social worker visitations in the homes. Transportation has been offered in every instance.

In summation, regarding seven closed schools and transfers from overcrowded schools, the total pupils dealt with were 2700. Of this number, only 2216 were available for re-assignment. Twelve hundred eighty-seven (1287) accepted re-assignment and 929 requested freedom of choice. Thirteen hundred fifteen (1315) of the available 2216 black pupils are now going to predominantly white schools.

2. With reference to the inquiry of the Court regarding the effect of freedom of transfer on the desegregation proposed in the July 29, 1969 plan for the closing of inner-city schools and transferring their students, Section 2 of Exhibit "C" discloses the sending and receiving schools for such students electing free choice of transfer totaled 929, 209 of which were granted transfers to predominantly white schools. Exhibit "A" also shows school by school break-down for receiving schools of students electing free choice of transfer.

3. Attached marked Exhibit "C" is a report of the number of children, by school and race, who chose to transfer out of and into the various schools for the 1969-70 year. This information reinforces the Board's prior position that free choice of transfer has had little adverse effect on desegregation. The Court's attention is directed in Section 1 to Albemarle Road Elementary School and it is noted that 13 white students were granted transfers to

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

enter and 14 were granted transfers to leave, leaving the school with one less white student than originally assigned. By following this comparison, it is easy to note that the racial composition of the schools has been affected very little by free choice of transfer.

Attention is called to the fact that in Section 1 of Exhibit "C", there were 1610 requests for transfer, of which 1200 were granted. Black students lodged 504 requests and were granted 402. In addition, 929 black students from the closed inner-city schools requested and were granted transfers. Thus, 1331 black students and 798 white students were granted free choice of transfer for the year 1969-1970.

4. Attached marked Exhibit "D" is a report on the current numbers and races of children and teachers in the system, school by school, with percentages of each race for each school.

The first page of this exhibit is a summation that reflects the prior information presented to the Court with the addition of information for the year 1969. An interpretation of this information on the summation page shows that in 1969, 89 of 107 schools served both races. The 16 predominantly Negro schools integrated had 1153 white pupils and 8858 Negro pupils to account for a total of 10,011 pupils in predominantly black schools. The 73 integrated predominantly white schools had 8490 black students attending school with 52,070 white students. Thus, 60,560 students attend predominantly white integrated schools. Integrated schools have a total of 70,571 students, representing 83.5 per cent of all students served by the system. Interpretation of the staff summation shows that



*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

all schools are integrated, 18 schools of which are predominantly Negro and 89 schools of which are predominantly white. It is noted that the number of students attending schools having no desegregation of their student bodies has been reduced from 19,258 in 1968-69 to 13,947 students for the year 1969-70. During 1969, 7,342 black students are attending schools having no desegregation of student bodies and 6,605 whites attend schools in which the student bodies are not desegregated.

The remaining information of Exhibit "D" is a school by school break-down of pupils and faculty for the years noted.

5. Attached marked Exhibit "E" is a report on children being provided bus transportation, school by school. It is noted that 599 pre-schoolers, 10,441 elementary, 8,989 junior high and 4,708 senior high students are being provided transportation. This represents total daily transportation for 24,737 students.

6. Attached marked Exhibit "F" is a description of what has been done to provide the compensatory education programs proposed in the July 29, 1969 plan and policy statement.

7. The defendants are unable to furnish a copy of all September and October, 1969, reports of the Board to the Department of Health, Education and Welfare. Ordinarily, the forms for reporting are made available to the school system for a report as of October 1 of each year. The forms for reporting for the 1969-1970 school year have not been printed and furnished to the school system. It is submitted that substantially all of the information that

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

would be contained in the report to the Department of Health, Education and Welfare is disclosed in the information submitted in connection with Items 1, 2, 3, 4 and 5 above.

In its order of October 10, 1969, the Court posed nine additional questions which the Board was directed to answer. It is noted that the following responses were approved by unanimous resolution of the full Board of Education, such responses being as follows:

1. What, in verbatim detail, are the instructions that have been given to Mr. Weil?

ANSWER: Mr. Weil, on behalf of Systems Associates, Inc. has been instructed to devise a computer assisted systems analysis approach to restructuring each of the attendance lines for all schools served by the system. In this connection, it is understood that the product of such an approach would involve a computer print-out of all the possible configurations or combinations of grids within the following limitations:

1. All grids must be contiguous to the home grid or to grids which are contiguous to the home grid. (A grid is a 2500 ft. square as shown on the school attendance maps filed as exhibits in this matter.)
2. No combination of grids can be considered if they exceed the rated capacity of the school by 20%. Further, such combinations cannot underpopulate the school by less than 20%.
3. A school district cannot contain the home grid of another school.

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

4. A school district must contain the home grid in which the school is located.

5. No school district attended by whites should have less than 60% white student population to avoid "tipping."

After meeting these five tests, all possible combinations for each school will be separately printed in their order of desirability. Desirability will be determined first by the closeness of the integration ratio to 70% white/30% black. Second, desirability is reflected by the compactness of the school district; and third, the combination of grids which yields a student population closest to 100% of the school's rated capacity is considered most desirable. It is observed that the first five rules serve to identify the various combinations of grids which are possible, and the latter three rules judge the desirability of the various combinations.

2. What is Mr. Weil's assigned mission or goal?

ANSWER: Mr. Weil's mission or goal is to produce for each school, independent of all other schools, all feasible combinations of grids which may comprise a school district within the limitations set forth in the answer to question 1.

3. What areas of the district is he directed to include in his program of redrawing attendance lines?

ANSWER: Mr. Weil has been directed to include all areas of the County in developing combinations of grids which may comprise a school district.

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

4. What areas, if any, is he directed to exclude?

ANSWERS He has not been directed to exclude any geographical areas. However, certain special education programs, such as the learning academy and child development centers, have been excluded from his consideration. These programs enroll students from large geographic areas and in some cases, students from the entire county.

5. What schools will his program affect?

ANSWER: In making the systems analysis, the attendance lines of all schools served by the system will be considered and there is substantial probability that all attendance lines will be affected in varying degrees.

6. Will pairing, grouping or clustering of schools be used by the Board as needed to supplement the computer plan?

ANSWER: It is not suggested by the Board of Education that there is a "computer plan." The information supplied by the systems analysis approach will be utilized by the staff and the Board of Education along with other information in restructuring attendance lines. The Board of Education will consider pairing, grouping or clustering of schools where practical, educationally feasible and where such techniques offer reasonable prospects of producing stable desegregation in such affected schools.

7. Will the Weil program of redrawing attendance lines produce desegregation of all the schools by September, 1970?

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

ANSWER: The information supplied by the systems analysis approach will not produce desegregation of all schools by September, 1970. Dramatic results are expected. It is hoped that the number of all white and all black schools will be substantially reduced. The number of such schools cannot be determined at this time.

8. If the Weil program does not produce desegregation of all the schools by September, 1970, what does the Board plan to do to produce that result?

ANSWER: As pointed out above, the Weil program does not purport to be a single print-out of the best possible school district. Instead, it consists of a print-out of the best alternative grids for each school which for the purpose of such print-out is considered independently of all other school districts. This computer information will then be considered by persons familiar with neighborhoods, traffic patterns, natural hazards and other factors which to a limited degree may affect desegregation favorably or unfavorably in restructuring attendance lines. The Board of Education does not feel that it will be possible to produce pupil desegregation in each school by September, 1970. It is expected that faculties will fairly represent a cross section of the total faculty so that most and possibly all schools will not have a racially identifiable faculty. Furthermore, the restructuring of attendance lines coupled with faculty desegregation may satisfy constitutional requirements.

9. Will any plan produced by the Weil method or any other redrawing of attendance lines desegregate the schools

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

if unrestricted freedom of transfer or freedom of choice is retained?

**ANSWER:** The Board does not know precisely what effect free choice of transfer will have on desegregation through the utilization of the Weil approach. However, the Board does contemplate that additional restrictions on free choice of transfer will be required. The experience of this system indicates that retention of free choice of transfer would have little adverse effect on desegregation. During the 1968-69 school years, approximately 5 per cent of the students served by the system elected free choice of transfer, many of which transfers had no adverse effect on desegregation. In view of the limitation of the school population to not less than 60 per cent white, which will tend to stabilize racial ratios within the schools, it is believed that retention of a more restricted free choice of transfer will not have any appreciable effect on desegregation and will enable students in case of practical hardship or educational desire to attend the school of his or her choice.

The Board has acknowledged its duty to desegregate the schools served by the Charlotte-Mecklenburg Public School System and is earnestly striving to fulfill this responsibility. Moreover, the Board realizes that to be workable, any plan for further desegregation must not only be approved by the Court, but must also be accepted by the community. In order to enhance the chances of success, the Board feels that it is imperative that its planning be thoroughly done, carefully reviewed, meaningfully interpreted to the community and realistically administered.

*Defendants' Report to the Court Pursuant to Order  
of October 10, 1969*

In considering the defendants' motion for an extension of time, it is respectfully requested that the Court carefully consider the foregoing duties of the Board.

Respectfully submitted this 29th day of October, 1969.

/s/ WILLIAM J. WAGGONER  
William J. Waggoner  
1100 Barringer Office Tower  
Charlotte, North Carolina  
*Attorney for Defendant*

---

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

Dr. William C. Self, of lawful age, being first duly sworn, on his oath states that he is the Superintendent of Defendant named in the above and foregoing matter and that the facts stated in this report are true according to his best knowledge and belief.

/s/ WILLIAM C. SELF  
Dr. William C. Self

Sworn and subscribed to before me  
this 29th day of October, 1969.

/s/ FAYE JALLEY  
Notary Public

My commission expires: 3-27-71

ANSWERS TO STATISTICAL QUESTIONS

Civil Action No. 1974

Judge James B. McMillan

Re: 10-10-69

- 
1. Pupil Distribution for Closed and Overcrowded Schools
  2. Accounting of These Schools in Total Relating Effect of Freedom of Choice
  3. Report on Freedom of Choice Transfers: Section I, II
  4. Degree of Integration: Pupils and Professional Staff in Each School
  5. Pupils Transported Daily 1969-70 - - First Month Average
  6. Compensatory Education
  7. HEW Reports (Not included, pending official printing. Expected Report Date is December 15, 1969. Questions 2 and 4, above are basic for the HEW Report).

---

10-28-69

The Charlotte-Mecklenburg Schools



Pupils from closed schools\*

627a

or

Pupils from overcrowded schools

From:

Five Elementary Closed Schools

PUPIL DISTRIBUTION REPORT

(1) Reassigned School (Enrolled Oct. 10, 1969)

<u>Schools</u>	<u># Pupils</u>	<u>Schools</u>	<u># Pupils</u>	<u>Total # Pupils</u>
<u>Beverly Woods</u>	<u>46</u>	<u>Park Road</u>	<u>44</u>	
<u>Idlewild</u>	<u>55</u>	<u>Selwyn</u>	<u>25</u>	
<u>Lansdowne</u>	<u>75</u>	<u>Sharon</u>	<u>89</u>	
<u>Olde Providence</u>	<u>71</u>	<u>Winterfield</u>	<u>48</u>	<u>453</u>

(2) Freedom of Choice School (After Reassignment)

<u>Dilworth</u>	<u>3</u>	<u>First Ward</u>	<u>14</u>	
<u>Double Oaks</u>	<u>107</u>	<u>Oaklawn</u>	<u>22</u>	
<u>Elizabeth</u>	<u>2</u>	<u>Wilmore</u>	<u>7</u>	
		<u>Irwin Elem.</u>	<u>301</u>	<u>456</u>

(3) Moved Residence: Present School

<u>Double Oaks</u>	<u>7</u>	<u>Oaklawn</u>	<u>17</u>	
<u>Druid Hills</u>	<u>3</u>	<u>Tryon Hills</u>	<u>23</u>	
<u>Elizabeth</u>	<u>18</u>	<u>Villa Heights</u>	<u>29</u>	
<u>First Ward</u>	<u>35</u>	<u>Wilmore</u>	<u>4</u>	
<u>Lincoln Heights</u>	<u>7</u>			<u>142</u>

(4) Left County

(5) Pupils not reporting to school (Still live in Area): Dropouts

Grand Total 1052

\*Five Elementary Closed Schools

Number of pupils originally assigned to these schools\* at end of school year 1966-69 for 1969-70 year. 1052

\* Alexander St. (141), Bethune (166), Fairview (321), Zeb Vance (227), Isabella Wyche (197), Irwin Ave. Junior high, Second Ward Senior High

A

Pupils from closed schools \*

FROM: Irwin Avenue Junior High

or  
Pupils from overcrowded  
schools

628a

# PIPIL DISTRIBUTION REPORT

## (1) Reassigned School (Enrolled Oct. 10, 1969)

<u>SCHOOL</u>	<u>NUMBER</u>	<u>PUPILS</u>	<u>TOTAL</u>	<u>PUPILS</u>
Eastway	47			
Alexander Graham	87			
Williams	57	**		
McClintock	51			
Smith	46			
Wilson	7			
			<b>TOTAL</b>	<b>295</b>

## (2) Freedom of Choice School (After Reassignment)

Eastway	2			
Alexander Graham	5			
Hawthorne	7			
Kennedy	15			
McClintock	3			
Northwest	78			
Piedmont	5			
Ransom	1			
Sedgefield	1			
Smith	3			
Spaugh	16			
Williams	124			
Wilson	4			
			<b>TOTAL</b>	<b>264</b>

## (3) Moved Residence: Present School

Cochrane	1			
Alexander Graham	1			
Hawthorne	11			
Spaugh	1			
Kennedy	5			
Northwest	1			
Piedmont	2			
Randolph	3			
Williams	7			
			<b>TOTAL</b>	<b>32</b>

## (4) Left County

## (5) Pupils not reporting to school (Still live in area)

Dropouts	23
<b>GRAND TOTAL</b>	<b>619</b>

Number of pupils originally assigned to this school  
at end of school year 1968-69 for 1969-70 -- 619

\* Alexander St., Bethune, Fairview, Zeb Vance, Isabella Kyche,  
Irwin Avenue Jr., Second Ward Senior

\*\* The 57 to Williams were Project Opportunity students. This is  
a Ford Foundation project which was transferred from Irwin to  
Williams.

Pupils from closed schools \*  
or

Pupils from overcrowded schools

From: Second Ward Senior High School

# PUPIL DISTRIBUTION REPORT

## (1) Reassigned School (Enrolled October 10, 1969)

<u>School</u>	<u># Pupils</u>	<u>School</u>	<u># Pupils</u>	<u>Total # Pup</u>
East Mecklenburg . . . . .	15	Independence . . . . .	2	
Garinger . . . . .	77	Myers Park . . . . .	81	
Harding . . . . .	117	Olympic . . . . .	55	
		West Charlotte . . . . .	119	
				466

## (2) Freedom of Choice School (After Reassignment)

East Mecklenburg . . . . .	1	North Mecklenburg. . . . .	5	
Garinger . . . . .	30	Olympic. . . . .	4	
Harding. . . . .	111	West Charlotte . . . . .	50	
Independence . . . . .	4	West Mecklenburg . . . . .	2	
Myers Park . . . . .	2			209

## (3) Moved Residence: Present School

East Mecklenburg . . . . .	2	Myers Park . . . . .	12	
Harding. . . . .	5	Olympic. . . . .	1	
Garinger . . . . .	1	West Charlotte . . . . .	7	
				28

## (4) Left County

9

## (5) Pupils not reporting to school (Still live in Area):

Dropouts

234

GRAND TOTAL

946 \*\*

METROPOLITAN HIGH SCHOOL

Plus

10

Number of pupils originally assigned to this school  
at end of school year 1968-69 for 1969-70 year.

956

630a

2

Alexander Street, Bethune, Fairview, Zeb Vance, Isabella Wyche, Irwin Avenue JII,  
Second Ward SII.

Distribution lacks 10 pupils' forms which were retained in the following schools:

Irwin 7, Northwest 1, Sedgefield 2.

## Statistical Report, #1 (Cont'd)

## Accepted Reassignments From Overcrowded Schools

<u>From:</u>		<u>To:</u>	
Amay James	73	Ashley Park	27
		Westerly Hills	46

2. Total Accounting of Pupils and Pupil Distribution  
(Including Effect of Freedom of Transfer)

	<u>Closed Schools:</u>			<u>Overcrowded School:</u>			<u>Total</u>		
	<u>Five Elementary</u>	<u>one Junior High</u>	<u>one Senior High</u>	<u>one Elementary</u>	<u>El.</u>	<u>JH</u>	<u>SH</u>		
Enrolled at									
(1) Reassigned school	453	295	466	73	526	295	466		
						1,287			(48%)
(2) Freedom of Choice School	456	264	209		456	264	209		
						929			(34%)
(3) New-residence Local School	143	32	28		143	32	28		
						203			(7%)
Left School									
(4) Left County		5	9		0	5	9		
						14			(½%)
(5) Still Live in Area - - Dropouts		23	234		0	23	234		
						257			(9½%)
	1052	619	946						
Report forms error noted - - - - -			+10			10			
									(½%)
						1125	619	946	
						2700			
2627 * Total of Principals' end of year assignments to closed schools for 1955-70									

\*Projected enrollment for closed schools was 3000 based on history-trend of these schools.

633a

ELEMENTARY SCHOOLS  
- 1970Freedom of Choice Requests  
to Inter Granted(a)  
Freedom of Choice  
Requests to Leave(b)  
Gr

	N	N	N	N	N	N
Charles Road	0	13	0	14	0	14
Brook	0	12	0	3	0	3
ly Park	0	38	0	4	0	2
	0	0	0	6	0	6
inger	0	0	22	12	13	10
hill	0	15	0	4	0	3
ly Woods	0	15	0	10	0	10
ngsville	0	0	14	2	14	2
arwood	0	0	0	7	0	6
Avenue	2	0	1	2	1	2
illy	0	11	0	4	0	4
r Creek	0	0	1	2	1	0
nswood	0	7	3	4	3	4
lius	1	2	0	7	0	6
old	11	18	0	4	0	4
son	0	2	0	0	0	0
	0	14	7	1	0	1
shire	0	0	0	7	0	6
orth	1	1	0	22	0	21
e Oaks	5	0	6	0	6	0
dills	5	0	8	0	6	0
ver	1	10	1	12	1	12
eth	13	0	22	18	20	17
ly Park	0	22	0	9	0	9

Answer to Statistical Question No. 3

Report on freedom of choice transfers showing the number of children by school and race, who chose to transfer out of and into various schools for the 1969-70 school year.

Section I

Report On All Schools: Except the Seven Closed Down Schools

C



Elementary Schools  
1969-1970

Freedom of Choice Requests  
to Enter Granted

(a)  
Freedom of Choice  
Requests to Leave

	N	E	N	E	N	E
First Ward	2	0	0	0	0	0
Hickory Grove	0	0	1	3	1	2
Hidden Valley	0	0	0	1	0	1
Highland	0	4	0	4	0	4
Hoskins	0	2	0	20	0	1
Huntersville	0	11	1	1	1	1
Huntingtowne Farms	0	5	0	4	0	4
Idlewild	0	9	0	12	0	1
Many James	0	0	5	19	3	1
Lakeview	1	0	2	19	2	1
Lansdowne	0	12	0	3	0	3
Lincoln Heights	5	0	12	0	4	0
Long Creek	0	0	4	27	2	2
Marie Davis	17	0	2	0	0	0
Matthews	7	0	2	4	2	3
Merry Oaks	0	2	0	10	0	1
Midwood	0	14	3	10	0	8
Montclair	0	18	0	4	0	0
Nyers Park	2	12	4	5	4	5
Nations Ford	0	14	0	10	0	0
Revel	0	6	0	16	0	0
Roldale	1	28	1	1	0	0
Rokhurst	1	11	0	7	0	6
Roklawn	2	0	10	0	4	0
Rolde Providence	0	5	0	2	0	2

ELEMENTARY SCHOOLS  
 1963-1964

	Freedom of Choice Requests to Enter Granted		(a) Freedom of Choice Request to Leave		Total
	N	W	N	W	
Park Road	0	17	0	0	0 17
*Park Creek	0	0	1	3	1 2
Pineville	1	0	1	7	1 7
Pinewood	0	4	0	11	0 11
Plaza Road	1	9	1	19	1 19
**Pama Road	0	0	0	2	0 2
Sedgefield	0	3	0	7	0 7
Selwyn	2	17	0	2	2 19
Shanrock Gardens	0	27	0	7	0 34
Sharon	0	8	0	33	0 41
*Starmount	1	1	0	3	1 4
**Statesville Road	7	0	3	9	10 9
**Steel Creek	0	0	0	10	0 10
Thomashoro	0	18	0	21	0 39
Tryon Hills	5	0	5	16	10 21
Tuckaseegee	0	9	0	2	0 11
University Park	10	0	4	0	14 0
*Villa Heights	0	0	7	0	7 0
*Westerly Hills	0	0	0	0	0 0
Wilmore	1	2	2	14	3 16
Winsor Park	0	13	0	8	0 21
Winterfield	0	25	0	5	0 30
TOTAL	105	486	156	542	261 1028
Combined Total:	591		698		Combined Total

Notes: 1

Note 1: An additional 107 students were returned to school of original assignment since schools requested were closed for transfers.

\* School closed out to all transfer requests.

\*\* School closed out to regular transfer request only - (not majority to minority requests.)

JUNIOR HIGH SCHOOLS	637a		(a)		(b)	
	Freedom of Choice Requests to Enter - Granted		Freedom of Choice Requests to Leave		Grant	
	N	F	N	F	N	F
Albemarle Pond	0	0	1	9	0	0
Alexander	0	0	7	13	4	12
Cochrane	0	0	0	2	0	0
Coulwood	1	33	0	10	0	1
Eastway	0	0	0	4	0	0
Alexander Graham	5	58	0	2	0	2
Pawthorne	5	13	23	98	19	25
J. F. Kennedy	21	0	46	63	40	26
McClintock	0	0	2	7	2	2
Northwest	26	0	46	4	41	4
Piedmont	11	1	8	51	8	27
Quail Hollow	0	9	0	9	0	4
Randolph	4	22	0	58	0	23
Ransom	0	0	2	1	2	0
Sedgefield	27	0	8	35	8	34
Smith	2	19	0	7	0	4
Spaugh	48	16	13	14	13	2
Williams	14	0	28	2	21	0
Wilson	0	0	0	5	0	5
Total	164	171	184	394	164	171
Note: Combined Total	335		578		Combined Total	

Note: An Additional 243 Students were returned to original Assignment since schools requested were closed out for transfers.

School closed out to all transfer requests.

School closed out to regular transfer request only - (not majority to minority requests.)

# SENIOR HIGH SCHOOLS 1969 - 1970

## Freedom of Choice Requests to Enter Granted

## Freedom of Choice Requests to Leave

	N	E	N	E	N
East Mecklenburg	0	43	3	27	5
**Garinger	13	0	17	37	13
Harding	46	32	12	10	12
Independence	1	24	0	5	0
**Myers Park	9	0	5	26	5
**North Mecklenburg	20	0	10	16	10
Olympic	14	14	17	11	15
*South Mecklenburg	0	Note: 2	0	24	0
West Charlotte	29	5	92	3	67
West Mecklenburg	1	21	8	11	8
Total:	133	141	164	170	135

Note: - Combined Total: 274

334 - Combined Total

Note: An Additional 60 Students were returned to School of Original  
1 Assignment since schools requested were -closed for transfers.

Note: - SAT Students

2

\* School closed out to all transfer requests.

\*\* School closed out to Regular transfer request only - (not majority  
to minority requests.)

## 3. Section II

Freedom of Choice Transfers From Closed Schools  
To Schools in which Assigned for the  
 1969-70 School Year

From Closed Elementary Schools

To:	Alexander St.	Bethune	Fairview	Zeb Vance	Isabella Wyche	Total To
Dilworth					3	3
Double Oaks		2	105			107
Elizabeth		2				2
First Ward	7	7				14
Oaklawn		1	21			22
Wilmore				1	6	7
Irwin (Elem.)	1	43	121	90	46	301
Total From	8	55	247	91	55	456

## Section II (Cont'd): Freedom of Choice Transfers

From: Irwin Avenue Junior High - - - 264 PupilsTo: Freedom of Choice School

Eastway	2
Alexander Graham	5
Hawthorne	7
Kennedy	15
McClintock	3
Northwest	78
Piedmont	5
Ranson	1
Sedgefield	1
Smith	3
Spaugh	16
Williams	124
Wilson	4

Total	
From	264
----	

## Section 11 (Cont'd): Freedom of Choice Transfers

From: Second Ward Senior High - - - 209 Pupils

To: Freedom of Choice School

East Mecklenburg	1
Garinger	30
Harding	111
Independence	4
Myers Park	2
North Mecklenburg	5
Olympic	4
West Charlotte	50
West Mecklenburg	2

Total	
<u>From</u>	209

The Charlotte-Mecklenburg Schools

642a

Research Report 2-'69  
and 10-'69

SUMMATION OF INTEGRATION 1965 (MARCH) AND 1968-69 (OCT. 1, '68)  
AND 1967-70 (Oct. 2, '69)

For Pupils

Professional Staff

I Schools Having Integration					
For Pupils	1965	1968	For Staff	1965	1968
	1 N + 22 W	16 N + 68 W		3 N + 0 W	16 N + 82 W
	= 23 of 109	= 84 of 112		= 3 of 109	= 98 of 100
	or 21%	or 75%		or 3%	or 87%

II

	1965	1968	1965	1968
	N W	N W	N W	N W
A.				
			Number in Minority Race (integrated)	
Pupils	9W 476N	1192W 6704N	5.2W 0N	131W 208N
B.				
			Number in Majority Race (integrated)	
Pupils	343N 16,446W	8697N 47,356W	143.3N +0W	374N 2575W

Total Involved by Integration

Predominantly Negro Schools				
- Pupils	352	9889	10,011 Staff	149
Predominantly White Schools				
- Pupils	16,922	54,060	60,580 Staff	0
Total				
- Pupils	17,274	63,949	70,591 Staff	149
or		or	or	or
24% of		77% of	84% of	91% of
72,336		83,111	84,518	3613 assign
Enrolled				at our def
				school

149 or 5% of 3140 incl. part assignments in schools



RACIAL DISTRIBUTION OF PUPILS AND PROFESSIONAL STAFF  
1965 (March), 1968-69 (Oct. 1, '68), and 1968-69

Professional Staff									
		1965		1968		1969			
		N	W	N	W	N	W		
Grade	No. School	1965 Pupils N	1965 Pupils W	No. School	1968 Pupils N	1968 Pupils W	No. School	1969 Pupils N	1969 Pupils W
1-6	72	9,364	27,696	76-	13,290	31,545	73-	13,374	31,522
7-9	17	2,475	11,804	21	5,934	14,741	20-	6,188	15,191
10-12	8	1,625	10,677	11	4,377	12,313	10-	4,472	12,808
	97	13,464	50,177	108-	23,601	58,599	103-	24,034	59,521
Other	12	6,877	1,818	4+	640	271	4+	656	307
:Kgn. + Trainable									
1-4	1	360						15½	
1-7	2	431	207					17	9½
1-9	3	729	1611					32	68
5-9	1	505						25½	
1-12	3	2400						112½	
7-12	2	2452						120	1½
Total	109	20,341	51,995	112	24,241	58,870	107	24,690	59,828
		877	2263	907	2706	947	27		
		Include Part-time		Not Include Part-time					
Among teachers assigned to more than one school									

643a

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70 \*

School	1965 Pupils				1968-69 Pupils				1969-70 Pupils				Professional Staff			
	N	%	M	N	%	M	N	%	N	%	M	N	N	%	M	N
Elementary						(other)					(other)					(other)
Albemarle Rd.				4	1%	499			4	1%	510		6	32%	13	6
Alexander Street	342	100%		257	100%	452	61	12%			452		11	100%	18	5
Allenbrook				50	0%	553	27	9%			574		2	0%	22.9	5
Ashley Park				694	0%	674	25	3%			699		2	0%	28.2	4
1-9 Bain													1	5%	20	5
165																
Barringer				668	14%	131	859	77%			16		13	92%	18	16
Berryhill				1026	15%	685	114	14%			675		2	4%	32	6
Bethune	343	11%	9	223	11%	3	68	9%			684		11	100%		3
Beverly Woods													1	8%	12	5
Biddleville	434	100%														
159 Billingsville																
Briarwood	729	100%		619	100%	2	610	100%			0		25	100%		16
Bruns	2	0%	582	8	1%	640	6	1%			680		3	12%	22	6
Chantilly				445	0%	491	774	1%			10		26	13%	2	21
167 Clear Creek				207	0%	225	51	17%			244		1	5%	21	4
													9.6	8%	12	3
Collinswood				375	0%	490	111	20%			443		1	5%	21	3
Cornelius				241	0%	252	195	45%			237		7	33%	14	5
Cotswold				631	0%	567	23	4%			537		1	5%	21	4
Crestdale	97	100%											5.0	0%		2
Davidson				178	0%	186	104	35%			186		1	9%	11	2
Marie Davis	808	100%		705	100%	728	691	100%			0		29	100%		14
Derita	6	1%	892	165	15%	889	163	15%			688		3	9%	32	5
Devonshire							0	0%			903		4	14%	37	7
Dillworth	100	20%	401	223	37%	355	113	29%			336		4	15%	22	3
Double Oaks	703	100%		300	100%		836	100%			0		32	100%		19

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff				
	N	%	M	N	%	M (other)	N	%	M (other)	1965	N	%	M (other)	1969-70
<b>Elementary</b>														
Druid Hills	520	100%		504	97%	3	472	94%	3	20.7	20	27.1	24	13 62% 8
Eastover	49	8%	704	49	9%	580	42	8%	559	42	1	4%	24	4 16% 20
Elizabeth	5	1%	448	270	54%	194	366	73%	151	22.9	2	9%	21	6 24% 20
Elizabeth				2	1%	374	3	1%	371	14.9	19	6%	15	3 12% 13
Fairview	702	100%	368	363	52%					28.0				
First Ward	473	100%		749	100%		820		0	22.8	30			17 56% 17
J. H. Gunn	596	100%								33.6				
Wickory Grove			530	80	13%	531	70	11%	533	21.7	1	4%	23	3 12% 20
Hidden Valley						977	0	0%	1100	5%	2	5%	35	7 28% 35
Hightland	2	1%	273	47	13%	324	69	18%	305	14.0	1	7%	14	3 12% 13
Hoskins			342	18	5%	251	13	3%	228	14.7	2	15%	11	3 12% 9
Huntersville			553	162	29%	560	154	27%	535	22.9	2	7%	25	5 19% 22
Huntingtowne Farms			358	7	1%	695	7	1%	603	15.1	1	4%	26	4 16% 21
Id'wild			522	2	0%	521	55	10%	597	23.9	1	4%	22	6 24% 23
Aray James	360	100%		477		1	473	98%	3	15.5	19			13 57% 9
Ada Jenkins	431	100%	400	269	62%	147	362	84%	102	17.0	14	7%	5	13 56% 8
Lakeview			533			758	75	9%	802	23.9	1	3%	30	6 17% 30
Lansdowne				817	100%	2	711	87%	0	29.1	30			16 53% 12
Lincoln Heights	783	100%	423	250	32%	466	267	34%	468	17.6	2	9%	26	6 18% 23
Long Creek														
Matthews			937	(1-63)		742	86	10%	802	39.7	1	3%	32	6 16% 31
Harry Oaks			533			469	0	0%	442	21.9	1	5%	19	3 12% 16
Midwood			560	1	0%	522	11	2%	477	24.9	2	7%	21	4 16% 19
Montclair			720			722	0	0%	718	29.1	1	4%	27	5 19% 23
Morgan	305	100%					315	103%	0	14.9				10 47% 5
Irvin Ave. (Elem)														

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70 \*

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff																	
	N	%	W	N	%	(other)	N	%	(other)	N	%	W	M	% (other)	1965	N	%	W	M	% (other)	1968-69*	N	%	W	M	% (other)	1969-70*
<u>Elementary</u>																											
Myers Park	820	100%		23	4%	543	22	5%	456																		
Myers Street																											
Nations Ford	513	100%		63	12%	585	47	9%	681																		
Newell	463	100%		73	15%	423	74	16%	438																		
Oakdale	402	100%		72	18%	480	69	17%	517																		
Oakhurst	548	100%		2	0%	615	5	1%	616																		
Oakleaf	666	100%		650	97%	434	613	92%	0																		
Olive Springs				10	2%		80	14%	512																		
Park Road	583	100%		63	11%	551	44	8%	543																		
Paw Creek	793	100%		63	8%	861	27	3%	609																		
Pineville	364	100%		168	46%	363	146	40%	375																		
Pinewood	719	100%		99	14%	707	0	0%	674																		
Plaza Road	400	100%		99	25%	409	88	22%	362																		
Rena Road	442	100%		2	0%	777	1	0%	815																		
Sedcofield	526	100%		7	1%	545	3	1%	548																		
Plato Price	505	100%		5	1%	598	31	5%	617																		
Salwyn	531	100%		5	1%																						
Seversville	229	100%																									
Shenrock Gardens	536	100%																									
Sharon	531	100%					89	20%	364																		
Stormont	481	100%		25	5%	713	25	5%	712																		
Statenville Road	650	100%		295	45%	534	333	51%	522																		
Steala Creek	222	100%		12	5%	531	5	1%	509																		
Stirling	699	100%																									
Thomasboro	885	100%					705	0%	690																		
Paw Creek Annex				30	3%		30	1%	271																		

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff				
	N	W	%	N	W	%	N	W	%	1965 N	1968-69 W	1968-69 % (other)	1969-70 N	1969-70 W (other)
<b>Elementary</b>														
1-63 Torrence-Lytle	1005	324	32%	241	245	100%	322	166	52%	46.1	15.0	33%	4	15% 18
Lincoln Hills		631	63%	61	553	90%	58	578	99%	25.8	23.9	93%	4	17% 20
Tuckaseegee	700		100%	777		100%	825	1	100%	19.5	100%	100%	23	100% 10
University Park	465		100%	257		100%								
Feb Vance														
Willa Heights	23	594	25%	796	126	16%	929	88	9%	8.3	28.3	34%	23	55% 17
Mesley Heights	214		100%				46	539	9%		2.2		4	17% 20
Westerly Hills					569	6%		235	4%		15.4	22%	1	4% 13
Wilmore	6	323	54%	145	293	33%	228	748	6%	6%	25.8	12%	8	41% 24
Windsor Park	1	673	100%	2	737	100%	1			0%	18.7	26%	1	4% 24
Winterfield		455	100%		689	100%	48	588	7%	14.8	100%		6	40% 24
Woodland	360		100%							18.6	14.0	100%		
Woodlawn		283	100%	222		100%								
Isabella Wyche	383		100%											
<b>Child Development</b> (Ngn. Centers)														
Davidson, #1				83	117	41%	80	121	60%	3	36%	7	3	36% 7
Pineville, #2				166	37	54%	163	43	26%	2	20%	8	2	20% 8
Somersville, #3				174	26	57%	181	21	70%	8	50%	2	7	50% 3
Morgan, #4				188	6	97%	187	12	54%	8	80%	2	7	80% 2

COMPARISON OF PUPILS AND PROFESSIONAL STAFFING BY RACE  
March 6, 1965, 1968-69\*, and 1969-70 \*

School	1965 Pupils			1968-69 Pupils			1969-70 Pupils			Professional Staff					
	N	%	N	N	%	(other)	N	%	(other)	1965	W	N	W	% (other)	1969-70*
<u>Junior High</u>															
Albermarle Road				66	7%	881	63	6%	995			4	1%	43	6 13% 40
Alexander				347	51%	755	369	52%	771			6	1%	44	8 12% 41
Cochrane				76	5%	1444	79	5%	1552			6	1%	56	12 18% 54
Coulwood	3	1%	574	119	14%	727	106	12%	770			4	1%	34	6 9% 32
Eastway				3	0%	1364	61	7%	1356			3	3%	55	11 15% 51
Alex. Graham				8	1%	1084	113	12%	1028			4	9%	43	9 13% 40
Hawthorne	25	4%	570	492	52%	447	536	54%	472			12	27%	33	15 21% 34
Irwin Ave.	785	100%		666	100%					42.7	100%	32	97%	1	
McClintock				46	4%	1228	93	7%	1288			2	4%	49	10 14% 48
Northwest	773	100%		332	100%		1052	100%	1	33.7	100%	39	100%		22 52% 20
Piedmont	121	17%	291	428	9%	53	443	11%	55			13	2%	12	17 27% 13
Quail Hollow				171	1%	1261	155	1%	1421			3	3%	61	8 12% 55
Randolph				372	3%	711	289	3%	710			2	3%	38	7 10% 35
Ranson	9	1%	658	253	2%	586	260	2%	548			6	1%	31	11 17% 25
Sedgefield	6	1%	920	189	1%	802	167	1%	809			5	1%	39	9 13% 24
Smith						1399	55	4%	1436			3	3%	57	9 12% 52
Scotch	1	0%	530	186	3%	371	237	4%	839			6	1%	43	10 14% 37
Williams	752	100%		853	100%		1081	100%	0	34.9	100%	37	100%		27 75% 16
Wilson				60	0%	1132	71	0%	1145			4	0%	45	9 12% 42
York Rd. (Kennedy)	(7-12)1041	100%		727	1%	6	854	57%	9	49.9	100%	32	77%	1	21 55% 15
Learning Academy - 7th & 8th grades counted in JH, above.							5	1%	21			4	1%		11

School	1965 Pupils				1968-69 Pupils				1969-70 Pupils				Professional Staff				
	N	%	W	N	%	W	(other)	N	%	W	(other)	N	%	W	(other)	1968-69*	1969-70*
Senior High																	
East Mecklenburg			6% 1782	155		3% 1739	11%	227	11%		1925		6%	79.2	6	1%	85
Garinger	2	0%	2266	202		9% 2157	492	12%		2148		6%	100.0	6	6%	102	
Harding		0%	1002	169		7% 814	636	7%		720		4%	48.0	4	3%	49	
Independence				92		4% 962	135	11%		1111		6%		6	7%	59	
Myers Park	3	2%	1772	158		3% 1855	233	12%		1767		6%	76.7	6	6%	87	
North Mecklenburg	1	0%	1155	410		4% 1109	462	25%		1185		6%	51.8	6	7%	53	
Olympic				259		3% 522	376	4%		512		5%		5	1%	39	
7 <sup>12</sup> -Second Ward	1411	46%		1139		3% 3						70.0	1.5	57	7%	3	
South Mecklenburg	30	2%	1430	106		1% 1812	109	9%		2024		4%	72.0	4	5%	78	
West Charlotte	1560	46%		1569		1% 1	1653	100%		0		65.0	2.0	74	2%	6	
West Mecklenburg	1	0%	1270	119		2% 1340	143	7%		1444		4%	61.4	4	5%	73	

5. LIST OF NAMES OF MILLS PLANTING 1860-70 - FROM 1871

SCHOOL	PLANTING	PLANTING	PLANTING	PLANTING
ALPHEAUS RD. ELY.		282		
ALPHEAUS RD. JUNIOR			712	
ALSTON			1064	
ALSTON		94		
ASHLEY PARK		26		
BATH		640		
BARRINGER				
BERRYHILL		540		
BERRYHILL		374		
BIRCHWOOD		145		
BIRCHWOOD		217		
COCHRANES JUNIOR			890	
COLLINS SCHOOL		81		
COHILLIUS		189		
COTTON		43		
COULSON			500	
DAVIDSON		46		
DEWITT		385		
DEWITT		116		
EAST WASHINGTON				641
EASTON		20		
EASTON			62	
ELIZABETH		24		
ELIZABETH				339
ELIZABETH			102	
ELIZABETH				186
ELIZABETH			49	
ELIZABETH		386		

E



# TABLE OF PUPILS TRANSFERRED DAILY - 1910-11

651a

	PRE-SCHOOL	ELEMENTARY	JUNIOR HIGH	SENIOR HIGH
VALLEY		61		
WINDLE		414		
WINDLE PAYS		40		
WINDLE		249		484
WINDLE		222		
WINDLE			129	
WINDLE		245		
WINDLE		599		
WINDLE		563		
WINDLE JUNIOR			885	
WINDLE JUNIOR				135
WINDLE		550		
WINDLE		405		
WINDLE		405		825
WINDLE		329		
WINDLE		45		
WINDLE		197		
WINDLE				429
WINDLE		102		
WINDLE		519		
WINDLE		108		
WINDLE		155		
WINDLE		24		
WINDLE			1332	
WINDLE		133		
WINDLE			390	
WINDLE			640	

AVERAGE NUMBER OF PUPILS TRANSPORTED DAILY - 1969-70 FISCAL YEAR

SCHOOL	PRE-SCHOOL	ELEMENTARY	JUNIOR HIGH	SENIOR HIGH
BETHFIELD HAVEN		5		
BETHFIELD J.C.			88	
BELLEVILLE		100		
BELLEVILLE		170		
BELLEVILLE JUNIOR			897	
BELLEVILLE				1023
BELLEVILLE			235	
STARKPORT		29		
STATISVILLE ROAD		685		
STATISVILLE GREY		441		
STATISVILLE		71		
STATISVILLE		287		
WEST TOWNSHIP				3
WEST TOWNSHIP				615
WESTERLY HILLS		48		
WILLIAMS J.C.			82	
WILSON JUNIOR			932	
WINTERSFIELD		37		
DAVIDSON CDS	136			
DAVIDSON CDS	168			
DAVIDSON CDS	139			
DAVIDSON CDS	156			
<b>TOTALS</b>	<b>599</b>	<b>10,441</b>	<b>8,989</b>	<b>4,700</b>
<b>TOTAL 24,737</b>				

1969-70 budget adopted by the Board of Education on September 9 contains the following provisions for compensatory education:

A. New programs:

Supplements for 12 elementary assistant principals	\$ 10,000.
Salary for 35 additional special education teachers	320,808.
In-service workshops, consultants, visitation	25,000.

B. Redeployment of personnel from system-wide duties to working directly with compensatory education:

5 directors and coordinators	\$ 116,175.
20 corrective reading teachers	206,263.

C. Continuing support for the following activities:

Psychological services	\$ 243,810.
Special education	882,450.
Social work	217,342.
Child Development Centers	760,000.
Learning Academy	190,000.

In addition to the budgetary allotment of funds already committed for compensatory education, the Board of Education intends to make a request of County Commissioners for the amount of \$150,000 which they have announced is being held in contingency for compensatory education. Specific uses for the use of this money include individualizing instruction, particularly in providing materials and supplies. Attached is a proposal for use of these funds which is now being considered.

An application also has been made under the education component through City Demonstration Agency for Model Neighborhood funds as follows:

Instructional Fees for Model Neighborhood students	\$ 26,645.
Establishment of six Model Neighborhood Centers	1,015,188.

The Board of Education has stated its commitment for emphasis in all departments of the school system on the underachiever and the exceptional

Purpose: Improve reading skills of slow or retarded readers by providing support materials, equipment and personnel.

1. Materials

Supplement State adopted texts Open Highways series with recommended supplemental materials:

<u>Grade Level</u>	<u>Retarded Readers</u>	<u>Support</u>
1	2865	\$23,195
2	2761	7,320
3	2637	7,160
4	2475	3,720
5	2440	3,660
6	2358	3,550
7	2488	3,750
8	2375	3,570
9	2265	3,400
10	2230	3,350
11	1870	2,800
12	1685	2,570
		<u>\$58,085</u>
	<u>Tax and Shipping</u>	<u>2,750</u>

\$70,835

2. Equipment

200	Tape Recorders	@ \$100.00	\$20,000
100	Record Players	@ 70.00	7,000
500	Listening Centers	@ 58.60	29,300
			<u>\$56,300</u>
	<u>Tax and Shipping</u>		<u>3,000</u>

\$59,300

3. Personnel

Recruit 1,000 volunteers for 20 schools  
2 professional staff members to  
coordinate recruit training and  
supervision of volunteers

20,000

Total Cost

\$150,135

**Order dated November 7, 1969**

On October 29, 1969, the United States Supreme Court announced its decision in the Mississippi school case, *Alexander v. Holmes County*, Case No. 632. That decision, the most significant in this field since *Brown v. Board of Education*, peremptorily reversed an order of the Fifth Circuit Court of Appeals which, upon request of the United States Attorney General, had postponed until 1970 the effective desegregation of thirty Mississippi school districts, and had extended from August 11 to December 1, 1969, their deadline for filing desegregation plans. The Supreme Court held that the Court of Appeals

" \* \* \* should have denied all motions for additional time because continued operation of *segregated schools* under a standard of allowing all deliberate speed for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court, the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. *Griffin v. School Board*, 377 U. S. 218, 234 (1964); *Green v. School Board of New Kent County*, 391 U. S. 430, 439, 442 (1968)." (Emphasis added.)

The Supreme Court further directed the Fifth Circuit Court of Appeals to make such orders as might be necessary for the *immediate* start in each district of the operation of a "totally unitary school system for all eligible pupils without regard to race or color."

It is this court's opinion that the word "dual" in the Supreme Court opinion is another word for "segregated," and that "unitary" is another word for "desegregated" or "integrated." It is also this court's opinion that although,

*Order dated November 7, 1969*

as defendants say, this is not Mississippi, nevertheless the Supreme Court's prohibition against extension of time as laid down in *Alexander v. Holmes County* is binding upon this court and this school board, and bars the exercise of the court's usual discretion in such matters, and that to allow the request of the defendants for extension of time to comply with this court's previous judgments would be contrary to the Supreme Court's decision and should not be done.

Therefore, and based also upon the considerations set out in the memorandum opinion to be filed contemporaneously herewith, the motion of the defendants for extension of time for compliance with the court's August 15, 1969 order is denied. Ruling on all other pending motions is deferred.

This the 7th day of November, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Memorandum Opinion dated November 7, 1969****PRELIMINARY STATEMENT**

On Wednesday, October 29, 1969, the United States Supreme Court announced its decision in the Mississippi school case (*Alexander v. Holmes County*, Case No. 632). That decision peremptorily reversed an order of the Fifth Circuit Court of Appeals which, upon request of the United States Attorney General, had postponed until 1970 the effective desegregation of thirty Mississippi school districts, and had extended from August 11 to December 1, 1969, their deadline for filing desegregation plans. The Supreme Court held that the Court of Appeals

*" . . . should have denied all motions for additional time because continued operation of segregated schools under a standard of allowing all deliberate speed for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court, the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. Griffin v. School Board, 377 U. S. 218, 234 (1964); Green v. School Board of New Kent County, 391 U. S. 430, 439, 442 (1968)." (Emphasis added.)*

The Supreme Court further directed the Fifth Circuit Court of Appeals to make such orders as might be necessary for the immediate start in each district of the operation of a "totally unitary school system for all eligible pupils without regard to race or color."

The Mississippi school districts in the *Holmes County* case had degrees of desegregation ranging from nearly zero to about 16% of the Negro pupils. They like Mecklenburg hoped that their "freedom of choice" plans would satisfy the Constitution.

*Memorandum Opinion dated November 7, 1969*

The request for time extension, and all later proceedings in this cause, must be considered in light of the Supreme Court's reaffirmation of the law which this court has been following, and in light of the urgency now required by the *Holmes County* decision.

**THE RESULTS OF THE 1969 PLAN**

For pupil desegregation, the July 29, 1969 plan proposed to close seven black inner-city schools (most or all of which had previously been ear-marked for eventual "phase-out") and to transfer their 3,000 students in specified numbers to named suburban schools. All the transferee schools except West Charlotte were white. In addition, 1,245 black students, in specified numbers, were to be transferred from eight black or largely black schools to other designated suburban white schools.

The plan was accepted and approved because of its apparent promise to extend the opportunities of a desegregated education to over 4,000 new black students.

The plan has not been carried out as advertised: (a) Only 73 of the 1,245 scheduled for transfer from overcrowded black schools have been so transferred; those 73 were transferred not to the schools designated, but to other schools not mentioned in the plan. (b) It is now revealed that the closed schools, which were billed in July to produce 3,000 black students for transfer, actually had only 2,627 students in them when the schools closed in June! (c) The Board allowed full freedom of choice for students from the closed schools, and those students in large numbers elected to go to Harding High School, and to Williams Junior High, Northwest Junior High and other black schools, instead of to the assigned white schools. As a result, Harding High School was transformed immediately



*Memorandum Opinion dated November 7, 1969*

from 17% black to 47% black. This produced community consternation but no racial disorder among the students. The result may be deplorable, but the fact that the students at Harding High School have adjusted peaceably to the situation (like others before them at Cornelius, Davidson, Olympic, Randolph Road, Hawthorne and Elizabeth, and like the people of Anson and other North Carolina counties) shows that Mecklenburgers can live with desegregated schools. (d) The transfers proposed simply appear never to have been made to most of the suburban schools named in the plan. (e) *The plan therefore transferred to white schools only 1,315 instead of the promised 4,245 black pupils!* From closed schools, the elementary transferees numbered 463 instead of the advertised 1,235; junior high transferees were 273 instead of 630; and senior high transferees were 506 instead of 1,135; and from overcrowded schools 73 instead of 1,245. If Harding (47% black, 630 Negro students), Olympic (42% black, 376 Negro students), and Wilmore (49% black, 228 Negro students) should be allowed to continue their rapid shift from white to black, the net result of the 1969 pupil plan would be nearly zero.

Faculty desegregation has significantly and commendably improved since the April 27 order. Nevertheless, only six "black" schools and one "black" kindergarten have predominantly white faculties; and 98 out of the 106 schools and kindergartens in the system are today readily and obviously identifiable by the race of the heavy majority of their faculties.

The "performance gap" is wide.

*Memorandum Opinion dated November 7, 1969*

**THE SITUATION TODAY**

The following table illustrates the racial distribution of the present school population:

**SCHOOLS READILY IDENTIFIABLE AS WHITE**

% WHITE	NUMBER OF SCHOOLS	NUMBERS OF STUDENTS		TOTALS
		WHITE	BLACK	
100%	9	6,605	2	6,607
98-99%	9	4,801	49	4,850
95-97%	12	10,836	505	11,341
90-94%	17	14,070	1,243	15,313
86-89%	10	8,700	1,169	9,869
	<hr/> 57	<hr/> 45,012	<hr/> 2,968	<hr/> 47,980

**SCHOOLS READILY IDENTIFIABLE AS BLACK**

% BLACK	NUMBER OF SCHOOLS	NUMBERS OF STUDENTS		TOTALS
		WHITE	BLACK	
100%	11	2	9,216	9,218
98-99%	5	41	3,432	3,473
90-97%	3	121	1,297	1,418
56-89%	6	989	2,252	3,241
	<hr/> 25	<hr/> 1,153	<hr/> 16,197	<hr/> 17,350

**SCHOOLS NOT READILY IDENTIFIABLE BY RACE**

% BLACK	NUMBER OF SCHOOLS	NUMBERS OF STUDENTS		TOTALS
		WHITE	BLACK	
32-49%	10	4,320	2,868	7,188
17-20%	8	5,363	1,230	6,593
22-29%	6	3,980	1,451	5,431
	<hr/> 24	<hr/> 13,663	<hr/> 5,549	<hr/> 19,212
TOTALS:	106	59,828	24,714	84,542

Some of the data from the table, re-stated, is as follows:

Number of schools .....	106
Number of white pupils .....	59,828
Number of black pupils .....	24,714

*Memorandum Opinion dated November 7, 1969*

Total pupils .....	84,542
Per cent of white pupils .....	71%
Per cent of black pupils ..	29%
Number of "white" schools .....	57
Number of white pupils in those schools .....	45,012
Number of "black" schools .....	25
Number of black pupils in those schools .....	16,197
Number of schools not readily identifiable by race	24
Number of pupils in those schools .....	19,212
Number of schools 98-100% black .....	16
Negro pupils in those schools .....	12,648
Number of schools 98-100% white .....	18
White pupils in those schools .....	11,406

Of the 24,714 Negroes in the schools, something above 8,500 are attending "white" or schools not readily identifiable by race. More than 16,000, however, are obviously still in all-black or predominantly black schools. The 9,216 in 100% black situations are considerably more than the number of black students in Charlotte in 1954 at the time of the first *Brown* decision. The black school problem has not been solved.

The schools are still in major part segregated or "dual" rather than desegregated or "unitary."

The black schools are for the most part in black residential areas. However, that does not make their segregation constitutionally benign. In previous opinions the facts respecting their locations, their controlled size and their population have already been found. Briefly summarized, these facts are that the present location of white schools in white areas and of black schools in black areas is the result of a varied group of elements of public and private action, all deriving their basic strength originally from

*Memorandum Opinion dated November 7, 1969*

public law or state or local governmental action. These elements include among others the legal separation of the races in schools, school busses, public accommodations and housing; racial restrictions in deeds to land; zoning ordinances; city planning; urban renewal; location of public low rent housing; and the actions of the present School Board and others, before and since 1954, in locating and controlling the capacity of schools so that there would usually be black schools handy to black neighborhoods and white schools for white neighborhoods. There is so much state action embedded in and shaping ~~these~~ events that the resulting segregation is not innocent or "*de facto*," and the resulting schools are not "unitary" or desegregated.

## FREEDOM OF CHOICE

Freedom of choice has tended to perpetuate segregation by allowing children to get out of schools where their race would be in a minority. The essential failure of the Board's 1969 pupil plan was in good measure due to freedom of choice.

As the court recalls the evidence, it shows that *no white students have ever chosen to attend any of the "black" schools.*

Freedom of choice does not make a segregated school system lawful. As the Supreme Court said in *Green v. New Kent County*, 391 U.S. 430 (1968):

"\* \* \* If there are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, 'freedom of choice' must be held unacceptable."

Redrawing attendance lines is not likely to accomplish anything stable toward obeying the constitutional mandate

*Memorandum Opinion dated November 7, 1969*

as long as freedom of choice or freedom of transfer is retained. The operation of these schools for the foreseeable future should not include freedom of choice or transfer except to the extent that it reduces segregation, although of course the Board under its statutory power of assignment can assign any pupil to any school for any lawful reason.

**THE "NATIONAL STANDINGS"**

The defendants filed some statistics concerning the one hundred largest school systems in the country, and say that Charlotte-Mecklenburg desegregation compares favorably with that in most of those systems. That may well be so. The court is not trying cases involving the other ninety-nine school boards, and has not studied any evidence about them and does not know their factual nor legal problems. The court in its first order of April 23, 1969 has noted the substantial desegregation achieved in certain areas in the Charlotte-Mecklenburg system, and is still aware of it. The fact that other communities might be more backward in observing the Constitution than Mecklenburg would hardly seem to support denial of constitutional rights to Mecklenburg citizens. The court doubts that a double standard exists. The Attorney General of the United States has filed suit for desegregation in Connecticut as well as in the whole State of Georgia. One of the most stringent desegregation orders on record was entered recently against a school board in the City of Chicago. Constitutional rights will not be denied here simply because they may be denied or delayed elsewhere. There is no "Dow-Jones average" for such rights. With all due deference to the complexities of this school system, which have already been fully noted

*Memorandum Opinion dated November 7, 1969*

in previous opinions, the Board and the community must still observe the Constitution. The fact that the school system ranks high in some artificial "national standings" or that one-third of the Negro students do attend desegregated schools or predominantly white schools is no answer to the constitutional problems presented by sixteen thousand black Mecklenburgers still going to all-black or largely black schools in this predominantly white community.

**THE PROSPECTS FOR THE FUTURE**

The second part of the Board's report is answers to the court's questions designed to determine whether the Board has made the hard decisions necessary to desegregate the schools.

The answers show that those decisions have not been made.

The computer expert has been given restrictions which, taken at face value, indicate that his work will not lead to desegregation of all the schools. One such restriction has the apparent effect of limiting attendance to those who live a maximum of roughly a mile and a half from the school. (This is the requirement that all grids or areas must be "contiguous to the home grid or to grids which are contiguous to the home grid.") Another is the limitation that no school attended by whites should have less than a 60% white student population. (Unless this were coupled with a further requirement that no school attended by blacks shall have more than a 40% black student population, this appears to put the black schools "off limits" for his study.) The original verified motion of the School Board contained two other limitations. Those were that "a 'desirable' racial balance should be obtained" and that "reasonable limitation on distance of travel for a child has been imposed." The

***Memorandum Opinion dated November 7, 1969***

record is silent on what these limitations mean and whether they are still in effect.

The Board has not accepted pairing and grouping and clustering of schools as legitimate techniques, but has simply indicated that it will "consider" those techniques where they offer "reasonable prospects of producing stable desegregation \* \* \*." (Emphasis added.)

The report states unconditionally that:

***"The information supplied by the systems analysis approach will not produce desegregation of all schools by September, 1970. Dramatic results are expected. It is hoped that the number of all white and all black schools will be substantially reduced. The number of such schools cannot be determined at this time." (Emphasis added.)***

The report also says that:

***"\* \* \* The Board of Education does not feel that it will be possible to produce pupil desegregation in each school by September, 1970. It is expected that faculties will fairly represent a cross section of the total faculty so that most and possibly all schools will not have a racially identifiable faculty. Furthermore, the restructuring of attendance lines coupled with faculty desegregation may satisfy constitutional requirements." (Emphasis added.)***

The School Board is sharply divided in the expressed views of its members. From the testimony of its members, and from the latest report, it cannot be concluded that a majority of its members have accepted the court's orders as representing the law which applies to the local schools.



*Memorandum Opinion dated November 7, 1969*

By the responses to the October 10 questions, the Board has indicated that its members do not accept the duty to desegregate the schools at any ascertainable time; and they have clearly indicated that *they intend not to do it* effective in the fall of 1970. They have also demonstrated a yawning gap between predictions and performance.

Withholding or delaying the constitutional rights of children to equal educational opportunity on such vague terms as these is not the province of the School Board nor of this court.

Furthermore, since the Supreme Court has now prohibited lower courts from granting extensions of time, it may well be that the gradual time table laid down by this court's April 23, 1969 order contemplating substantial progress in 1969 and complete desegregation by September 1970) was and is too lenient.

If the plan tendered by the School Board on November 17, 1969 is thorough and informative, and sufficiently shows an unconditional purpose on the part of the Board to complete its job effective by September, 1970, the Board may perhaps be allowed to adhere to the existing time table. Certainly a Mecklenburg plan ought if possible to be prepared by the Mecklenburg School Board and its large and experienced staff, rather than by outside experts. Decision on that and other pending questions must await further developments, including the Board's November 17, 1969 report.

#### CONCLUSIONS

The school system is still discriminatorily segregated by race and maintained that way by state action. In many ways it is not in compliance with the Constitution. The Board has not shown a valid basis for an extension of time



*Memorandum Opinion dated November 7, 1969*

to comply with the court's judgment; it has shown no intention to comply by any particular time with the constitutional mandate to desegregate the schools; and it has suggested its intention *not* to comply by September, 1970. In spite of those facts the court would like as a matter of discretion to grant some of the time extension requested, but is of the considered opinion that in *Alexander v. Holmes County* the Supreme Court has prohibited the exercise of such discretion. The findings of fact in this opinion will be considered, along with facts found in previous orders, opinions and memoranda, as the basis for such future judgments and orders as may be appropriate, including such judgments and orders as may be appropriate upon receipt of the Board's November 17, 1969 plan. All statements of fact in this memorandum opinion, whether or not labeled as such, shall be deemed findings of fact, as necessary to support such judgments and orders.

This the 7th day of November, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

## **The Amendment to Plan for Further Desegregation of Schools**

Pursuant to the order of the Court dated August 15, 1969, and as re-affirmed by the order of the Court dated November 7, 1969, the Charlotte-Mecklenburg Board of Education submits the following as its plan for further desegregation of the schools served by the Charlotte-Mecklenburg Public School System.

### **RESTRUCTURING OF ATTENDANCE LINES**

The Board of Education has embarked upon a comprehensive program for the purpose of restructuring attendance lines involving all schools and all students served by the system. The primary purpose of this program is to achieve further desegregation in as many schools as possible. For the past two and one-half months, this program has been underway and an enormous amount of work has already been performed to bring the program to a point where meaningful information can now be brought forward.

The criteria for developing the computer assisted systems analysis approach to restructuring the attendance lines are as follows:

1. Systems Associates, Inc., the company employed to devise a computer assisted systems analysis approach to restructuring of attendance lines, has been instructed to include all schools and students served by the system. In this connection, it is understood that the product of such an approach would involve a computer print-out of all possible configurations or combinations of grids within the following limitations:

- A. Each school district must be comprised of a single set of contiguous grids. (A grid is a 2500 foot square

*The Amendment to Plan for Further Desegregation  
of Schools*

as shown on the school attendance maps filed as exhibits in this matter.)

- B. No combination of grids can be considered if they exceed the rated capacity of the school by 20 per cent. Further, such combinations cannot under-populate the school by more than 20 per cent.
- C. A school district cannot contain the home grid of another school.
- D. A school district must contain the home grid in which the school is located.
- E. No school district to which white students are assigned should have less than 60 per cent white student population to avoid "tipping."

After meeting these five tests, all possible combinations of grids are being printed separately for each school. The combinations will be reviewed to determine their desirability. Desirability will be determined by the following factors: (1) the closeness of the integration ratio to 70 per cent white—30 per cent black, (2) the compactness of the school district and (3) the combination of grids which yields a student population closest to 100 per cent of the school's capacity.

It is observed that the first five rules serve to identify the various combinations of grids which are possible and the latter three rules judge the desirability of the various combinations.

The best alternative set of grids for each school will then be considered by school personnel familiar with neighborhoods, traffic patterns, natural hazards and other factors. This review may have a limited effect upon desegregation,

*The Amendment to Plan for Further Desegregation  
of Schools*

favorably or unfavorably. After consideration of the computer information and such factors as listed above, a new school district will be formulated and its lines shown on a map. Other school districts will be formulated in the same manner until such time as the entire school system serving the elementary, junior high and senior high schools have been redistricted.

It is noted that, in any restructuring of lines, there is a "domino" effect such that a change in any one attendance line may cause changes in other attendance lines. Great care must be exercised in devising attendance lines which promise a substantial degree of stable desegregation. Therefore, in the opinion of the Board, its staff and Systems Analysis Associates, Inc., February 1, 1970, is the earliest practicable date a uniform, comprehensive and well-planned program which restructures attendance lines can be developed and approved by the Board of Education for submission to the Court.

The Board of Education has conducted an examination of the results of the computer analysis of attendance lines for forty-three (43) elementary schools located in the densely populated areas of the city. This examination discloses that it is *theoretically* possible to populate these schools with the following ratios of black students:

1. Two (2) schools at which the black student population ratio is 0%.
2. Nine (9) schools at which the black student population ranges from one to five per cent.
3. Two (2) schools in which the black student population ranges from six to ten per cent.

*The Amendment to Plan for Further Desegregation  
of Schools*

4. One (1) school in which black student population ranges from eleven to fifteen per cent.
5. Twenty-two (22) schools in which black student population ranges from sixteen to forty per cent.
6. Seven (7) schools in which the black student population is 100 per cent.

It should be noted that these combinations are theoretically possible. However, actual drawing of district lines may disclose that one or more grids are needed in several adjacent attendance areas in order to achieve the ratios set forth above. Computation of the alternatives possible at one black school disclosed that there were in excess of 2,000 possible grid configurations for the school district each of which would yield 60 per cent or greater white student population. The task of selecting the most desirable configuration consistent with the needs of adjacent schools is a monumental task which will require substantial efforts to accomplish for all of the 107 school served by the system.

The Board elected to work first with elementary schools rather than secondary schools because the size of the secondary districts requires substantially greater computer time. Therefore, the Board is not presently in position to furnish to the Court information gained from computer print-outs relating to the secondary schools.

The Board is most concerned with the question of "tipping" referred to above. It has been frequently observed that once a school reaches a point between 35 and 45 per cent black in student population, the school and neighborhood become rapidly predominantly or all black. For ex-

*The Amendment to Plan for Further Desegregation  
of Schools*

ample, in the school year 1954-1955, Barringer, Bethune, Elizabeth, First Ward, Lakeview, Seversville, Zeb Vance, Villa Heights and Wesley Heights Elementary Schools and Hawthorne and Piedmont Junior High Schools housed all white student bodies totaling 5,502 students. During the school year 1968-1969, these schools except Seversville and Wesley Heights which are now housed in Bruns Avenue Elementary School had student population of 4,652 (81 per cent) black and 1,105 (19 per cent) white students. It is further noted that in March of 1965, these schools had a black student population totaling 35 per cent of the combined enrollments. Therefore, it is the plan of this School Board to limit schools to which white students are assigned to those schools in which it is possible to provide a student population which is at least 60 per cent white. Otherwise, schools with high percentages of blacks become rapidly or more predominantly black and as found by the Court, "a racial mix in which black students heavily predominate tends to retard the progress of the whole groups, whereas, if students are mingled with a clear white majority, such as a 70/30 ratio, the better students can hold their pace, with substantial improvement for the poorer students." It is the considered judgment of the Board of Education supported by its staff that to create a school district which is likely to turn predominantly black is an exercise in futility and will neither produce quality education for the children nor offer lasting prospects for stable desegregation.

The Board has instructed the school staff to periodically review schools which show an unusual growth in their black student population and report to the Board such attendance districts in order that the Board may consider revis-

*The Amendment to Plan for Further Desegregation  
of Schools*

ing such attendance lines to avoid the possibility of "tip-ping."

A majority of the Board of Education believes that the constitutional requirements of desegregation will be achieved by the restructuring of attendance lines, the restricting freedom of transfer and other provisions of this plan. The majority of the Board has, therefore, discarded further consideration of pairing, grouping, clustering and transporting. If the majority of the Board of Education is in error in its conviction that such measures are not constitutionally mandated, the Board respectfully requests clear direction to the contrary through the careful consideration of perplexing questions as they apply to the Charlotte-Mecklenburg School System. These questions include the following:

1. What is a unitary school system?
2. What makes a school racially indistinguishable?
3. Will this school system which bases its plan primarily on geographic zoning be considered to have a unitary school system?
4. Will this system be unitary even though it operates more schools with all white student populations?
5. Will this system be unitary even though it operates one or more schools with all black student populations?
6. What constitutes a racially indistinguishable faculty?
7. If a pupil percentage ratio (black/white) is used, what are the acceptable limits?

*The Amendment to Plan for Further Desegregation  
of Schools*

8. If pupil ratios (black/white) are used in individual schools, must the same ratios be maintained indefinitely in spite of changing neighborhood patterns?

**FREE CHOICE OF TRANSFER**

Any black student will be permitted freedom of choice transfer if the school to which he is originally assigned has more than 30 per cent of his race and if the school he is requesting to attend has less than 30 per cent of his race and has available space. Any white student will be permitted freedom of choice transfer if the school to which he is originally assigned has more than 70 per cent of his race and if the school he is requesting to attend has less than 70 per cent of his race and has available space. Availability of space will be determined by the school administration under rules of uniform application established by the School Board.

In addition, transfers may be granted to students whose request for transfer evidences conditions of hardship. Hardship will be determined on the basis of uniform rules developed by the administrative staff.

The administrative procedures for such transfer shall be readily available to each student.

**FACULTY DESEGREGATION**

During the 1970-1971 school year, the Board of Education will staff each school so that the faculty at each school will be predominantly white and, where practicable, will reflect the ratio of white and black teachers employed in the total faculty of the school system.

Recognizing that the assignment procedures necessary to achieve this goal will place many teachers in circum-



*The Amendment to Plan for Further Desegregation  
of Schools*

stances with which they are unfamiliar and for which they have only limited preparation, the Board will therefore seek to provide special assistance to them by requesting additional funds in its 1970-1971 budget for in-service education and by deploying its central office staff in the most effective way possible.

It is impossible at this time for the Board to specify the precise percentage of racial mix in each school faculty since the school system will lose approximately 600 teachers at the end of the current year and will employ approximately 750 teachers new to the system. Race and qualification of these teachers are unknown at this time, and faculty assignments cannot be made until the summer months immediately preceding the opening of the school year.

**SCHOOL CONSTRUCTION PROGRAM**

Until such time as the restructuring of attendance lines is final, a comprehensive review of the new construction program cannot be completed. As indicated in the Board's plan filed with the Court on July 29, 1969, a part of the study will be completed by February 1, 1970, and a more general long-range study will be completed by June of 1970.

The Building and Sites Committee has undertaken this study at the direction of the Board of Education. The Committee has conducted an extensive study involving the 90 projects identified in school system's master plan for construction. The Committee has reported to the Board that 46 of the 91 projects are either completed, under construction, or are far along in planning. Of the 45 projects remaining, 5 (\$1,850,000.00) are unaffected by any

*The Amendment to Plan for Further Desegregation  
of Schools*

plan for further desegregation because they are already integrated; and 19 (\$2,690,000.00) projects are unaffected because the work planned will have no effect on the pupil capacity of the physical plant. The Building and Sites Committee has authorized the staff to proceed with planning on all projects unaffected by any anticipated moves in desegregation.

The Committee concluded that the work on the remaining 21 projects might be affected by plans for further desegregation and delayed planning on these projects pending further study. Funds set aside for these 21 projects amounts to \$10,475,000.00.

The names of these projects are as follows

1. Moore's Chapel
2. Allen Hills
3. Thomasboro
4. Cotswold
5. Lincoln Heights
6. University Park
7. Villa Heights
8. Highland
9. Lakeview
10. Briarwood
11. Newell
12. Midwood
13. Berryhill
14. Selwyn

*The Amendment to Plan for Further Desegregation  
of Schools*

15. Center City Elementary
16. Fairview
17. Wilora Lake
18. Elizabeth
19. Piedmont, Jr.
20. Irwin Avenue, Jr.
21. Metropolitan, Sr.

The Building and Sites Committee has analyzed the present housing conditions for the school system. A copy of this analysis is attached as Exhibit "A".

I, William C. Self, Superintendent of the Charlotte-Mecklenburg school system and Secretary to its Board of Education, do hereby certify that the foregoing is a true, perfect and correct copy of the Amendment to Plan for Further Desegregation of Schools as adopted by the Board of Education on the 13th day of November, 1969, and spread upon its minutes.

This the 17th day of November, 1969.

/s/ WILLIAM C. SELF  
William C. Self  
Secretary to the Board

### **Report Submitted in Connection With the November 13, 1969 Amendment to Plan for Further Desegregation**

On November 7, 1969, the Court denied the defendant's motion for an extension of time for submission of a plan for further desegregation and ordered submission of a report as directed in the order of August 15, 1969. The defendant's amendment to its plan for further desegregation is submitted contemporaneously herewith, following adoption by the Charlotte-Mecklenburg Board of Education.

The plan should be considered against the background of progress in desegregation accomplished by the School Board. The desegregation of this system began during the school year 1962-1963 by the closing of schools and partial redestriking of attendance lines which was completed in 1965. Through this program, the former dual system of schools which had existed prior thereto was disestablished.

In 1965, this proceeding was instituted by the present plaintiffs and the district court (1965) and the Court of Appeals (1966) approved the plan of desegregation under which the schools were operated through the school year 1968-1969. As set forth below, the degree of desegregation accomplished under that plan has been substantial. It should be kept in mind that the School Board during that period was guided by the following pronouncement of the U. S. Court of Appeals for the Fourth Circuit, to wit:

*"Whatever the Board may do in response to its own initiative or that of the community, we have held that there is no constitutional requirement that it act with the conscious purpose of achieving the maximum mixture of races in the school population . . . So long as*

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

the boundaries are not drawn for the purpose of maintaining racial segregation, *the School Board is under no constitutional requirement that it effectively and completely counteract all of the effects of segregated housing patterns.*" (Emphasis supplied.)—*Swann v. Charlotte-Mecklenburg Board of Education*, 369 F. 2d 29 (October 24, 1966)

For almost four years, the Board proceeded in conformity with the plan approved by the District Court and the Court of Appeals. It was not until 1969 that the Board was informed that its plan was no longer acceptable and that additional, but generally unspecified steps were required to effect further desegregation.

The School Board has acted affirmatively in many ways to assure an equal educational opportunity for all students and to further desegregate the system, many of these actions having been taken on its own initiative. This positive action is reflected by the following illustrations:

1. Twenty schools have been closed and pupils reassigned primarily in order to increase racial mixing.
2. A single athletic league has been created without distinction between white and black schools or athletes.
3. Employment practices are on a nondiscriminatory basis and employment ratios reflect the black/white ratio of the community.
4. Individual school faculties have been desegregated.
5. In the school year 1970-71, all faculties will be predominantly white.

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

6. Black principals have been assigned to predominantly white schools and white principals have been assigned to predominantly black schools.
7. Black professional personnel have been appointed to ranking administrative positions.
8. A black minister was appointed by the Board of Education to its membership when the community twice failed to elect him to the Board. This member currently serves on the Board of Education.
9. The dual school bus system was eliminated.
10. Nondiscriminatory practices are, and have been, followed in all facets of the school system, including the following:
  - a. School fees
  - b. School lunches
  - c. Library and other instructional materials
  - d. Quality of school buildings
  - e. Use of federal funds
  - f. Course offerings
  - g. Evaluation of students
11. The black and white P.T.A. Councils have been merged into a single organization at the urging of the school administration.
12. Specialized and supplementary programs, such as the residential school for underachieving students (the Learning Academy) and the kindergarten and nursery school programs (Child Devel-

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

opment Centers), have been designed and implemented in such a way that desegregation has been substantially increased.

13. Freedom of choice has been redesigned so that its only effect is to promote increased desegregation and to give stability to the racial mix of individual schools.
14. The current restructuring of attendance lines is designed to promote additional desegregation.
15. The current plan provides for periodic review of the racial mix at each school so that corrective action may be taken to inhibit "tipping" and avoid further black racial isolation in the schools.

This portion of the report deals with further information concerning the nature and effect of the Plan.

The Order dated August 15, 1969, approved the policy statement of the Board and, therefore, a restatement of the same is deemed unnecessary.

A review of the plan discloses that the provisions for restructuring attendance lines are in conformity with the plan as submitted on July 29, 1969, supplemented by later action of the Board which was subsequently submitted to the Court. It is important to know that the Board is now submitting preliminary information relating to theoretical ratios in the elementary schools which promise a remarkable degree of desegregation. It is important that the Court does not construe the information submitted in the plan relating to racial ratios of elementary schools as being in the nature of a guarantee by the Board since it is anticipated the results of restructuring the attendance lines may

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

produce a greater or lesser degree of desegregation, the extent of which cannot be determined at this time. Comparing the theoretical ratio with the present racial ratio of desegregation in the elementary schools, the following information is disclosed:

Elementary Schools			
<i>Percent Black</i>	<i>Number of Schools 1969-70 Actual Ratios</i>	<i>Number of Schools Theoret- ical Ratios</i>	<i>Number of Schools Not Com- puted 1969-70 Actual Ratios</i>
0%	9	2	1
1-5%	17	11	3
6-10%	11	2	2
11-15%	6	4	3
16-40%	13	29	8
41-100%	21	8	0

It is noted that it is theoretically possible to reduce the number of all white schools by six and the number of schools which are all black or likely to become predominantly black has been reduced by thirteen schools. The precise ratios must wait the difficult task of locating all attendance lines.

An illustration of the difficulty in designing school attendance lines and in preserving maximum desirable results is shown on Exhibit "A" attached hereto. This exhibit shows three adjacent schools, each of which requires grids needed by one or more of the other schools to reach maximum desirable desegregation. However, by reason of the enormous number of alternative grid combinations available, it is believed that substantial further desegregation may be achieved under this approach.



*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

The Court has previously expressed concern over Harding High School, Wilmore Elementary and other schools which have shown a rapid shift in student population from white to black. The Board will employ three methods in an attempt to produce stable desegregation. The methods to be used are as follows:

1. In determining the initial attendance lines, the ratio of black to white students will not exceed 60% white—40% black where the school is desegregated.
2. Severe restrictions will be imposed on freedom of choice so that exercise of freedom of choice may have only the effect of improving desegregation in the system.
3. The school staff will keep a watchful eye on schools experiencing unusual growth in black student population. The school staff will report to the Board such shifts so that attendance lines may be altered to counteract neighborhood shifts which often lead to racial isolation of blacks. (See Exhibit "B" attached hereto for examples of such shifts.)

The Court will, therefore, note that the Board's plan is well calculated to produce stable desegregation.

With reference to faculty desegregation, great progress has been achieved for the second school year 1969-70. The plan will produce substantially more desegregation since each school will have a preponderance of white teachers and, where practicable, a more desirable ratio. The Board is not only interested in numbers but also in assisting its faculty with preparation for new teaching conditions and situations. Precise statistics for the next school year cannot

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

be furnished at this time for the reasons stated in the plan.

To develop a meaningful, enduring and comprehensive construction program, the Board and staff must know the precise location of the new attendance boundaries since the capacities of nearby schools and the effect of new construction on such capacities are critical factors in determining the placement of new schools. Therefore, development of this phase of the plan must await restructuring of attendance lines.

It is noted that with respect to current construction, the five projects unaffected by the desegregation plan involve an expenditure of \$1,850,000; projects for standardization of facilities to meet educational programs where capacity is not a factor involve an expenditure of \$2,690,000, and projects which may be affected by desegregation involve an expenditure of \$10,475,000. The latter sum is being held pending development of the building program specified in the plan.

The Court has previously been furnished information for the 1968-69 school year which indicates that Charlotte-Mecklenburg ranks 43rd in size among the 100 largest school systems of the Nation.

Of the 15 systems which have comparable pupil enrollments and comparable percentages of black students, Charlotte-Mecklenburg ranks 5th in the percentage of schools having a racial mix. Locally, significant additional progress has been made for the 1969-70 school year.

These comparisons are not intended as any indication of a self-satisfied complacency on the part of the Charlotte-Mecklenburg Board of Education regarding the progress which it has made to date in the desegregation of its schools or as a justification for any slow-down in its con-

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

tinuing efforts to afford every child in the system the education to which he is entitled. However, these comparisons (and similar ones for prior years) do show that Charlotte-Mecklenburg has been among the leaders in facing up to the responsibility of providing quality education on a desegregated basis for all children—white or black.

The Board has no intention of tailoring its performance to those of other systems. On the contrary, the Board on its own initiative is committed to the proposition that every child in the system is entitled in full measure to a quality education unimpaired by any restraints or restrictions upon his constitutional rights.

As outlined above, in response to the June 20, 1969, order of the Court, this Board submitted a plan for the desegregation of teachers and a plan and time-table for active desegregation of pupils. These plans were conditionally approved by the Court on August 15, 1969, with instructions to submit a more comprehensive plan by November 17, 1969.

In compliance with the directions of the Court, the Board of Education and its administrative staff have worked diligently to formulate a plan which will satisfy the mandate of the Court and protect and promote the Constitutional rights of every child, without sacrificing the quality of education which we desire for all our children and without jeopardizing the community support which our schools must have. It is the belief of the Board of Education that the current plan, as detailed in this report, will achieve both these goals.

The Board of Education, however, has been handicapped in its work. It has been required to proceed without clear directives regarding exactly what is required of the Board and the plan to satisfy the mandates of the Constitution

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

to provide for our children a "non-racial", "desegregated", "unitary" school system.

The Board is now, and always has been, ready and willing in good faith to fully acquit its Constitutional duty and to incorporate in any plan whatever may be required by the Constitution—regardless of what the Board may conceive to be the effect of such compliance on the process of educating children or upon community support for the schools.

The Board takes very seriously its obligation to act responsibly—actions which vitally affect in a direct and personal way the lives and welfare of 85,000 students, their parents, 5,500 school personnel and the community at large. The formation of a stable and workable desegregation plan involves intelligent planning and hard decisions. These decisions should not be made more difficult by requiring the Board to speculate unnecessarily about what must or can be done.

If the Board is in error in its interpretation of its constitutional duty, then the time has come when the Board must be given specific directions as to what are and what are not necessary or permissible ingredients of an acceptable plan. When the Board understands what is required, it can more effectively get on with the job of implementing its plan—without the disruptive uncertainties and protracted litigation involved in the submission of numerous piecemeal, tentative, speculative or conditionally approved plans which are the likely results of plans submitted without a clear understanding of what must be done. It is the Board's conviction that, once the community understands what is required, it will support the Board and accept what

689a

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

ever adjustments must be made to comply with these requirements.

Respectfully submitted this 17th day of November, 1969.

BROCK BARKLEY  
Law Building  
Charlotte, North Carolina  
ERVIN, HORACK AND McCARTHA

BENJAMIN J. HORACK  
806 East Trade Street  
Charlotte, North Carolina

WEINSTEIN, WAGGONER, STURGES  
& ODOM

WILLIAM J. WAGGONER  
1100 Barringer Office Tower  
Charlotte, North Carolina  
*Attorneys for Defendants*

*Report Submitted in Connection with the November 13,  
1969 Amendment to Plan for Further Desegregation*

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG


Dr. Robert C. Hanes, of lawful age, being first duly sworn, on his oath states that he is the Assistant Superintendent of Defendant named in the above and foregoing matter and that the facts stated therein are true according to his best knowledge and belief.

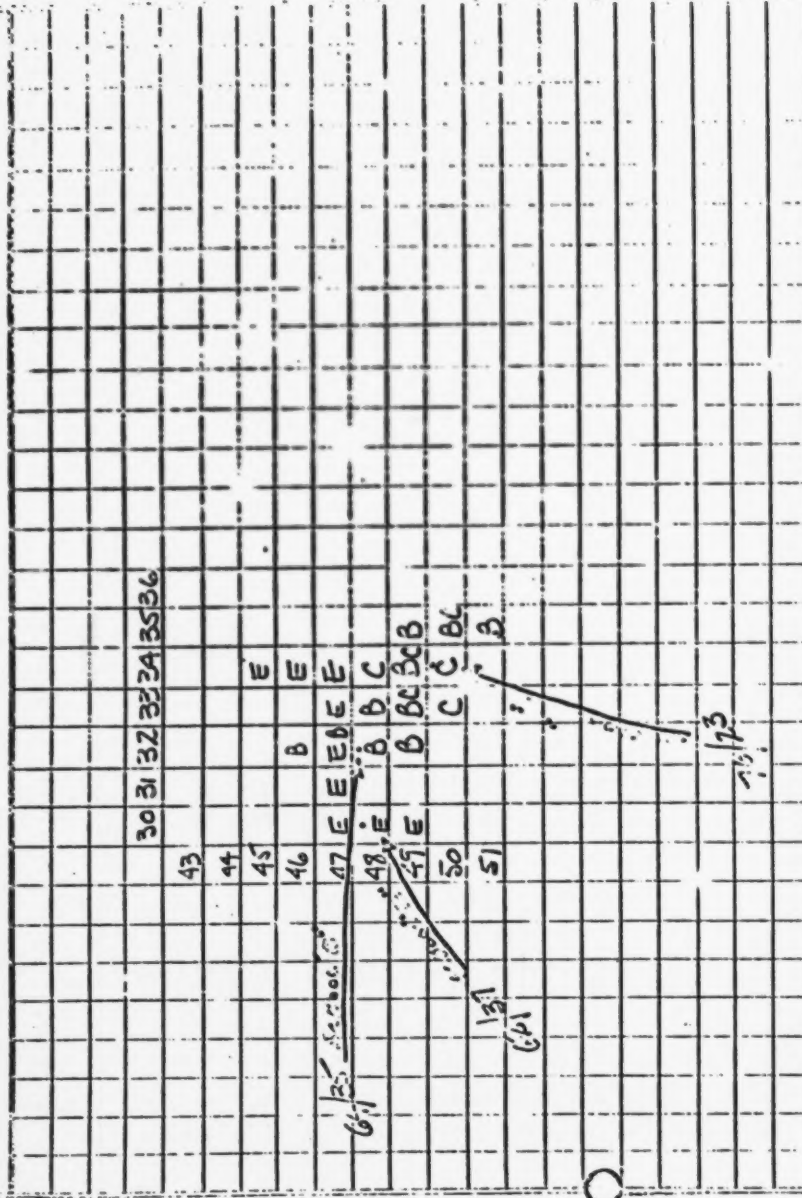
/s/ ROBERT C. HANES  
Dr. Robert C. Hanes

Sworn and subscribed to before me  
this 17th day of November, 1969

/s/ FAYE JALLEY  
Notary Public

My commission expires: 3/27/71

(See Opposite) 



Three adjacent school districts representing schools b, c, and e. The squares represent grid squares as disclosed on master elementary map. The designation of school grid represents the location of the school within these grids. The letters within the grids represent the grids required for desegregation ratios indicated of 64% white/35% black for school b; 32% white 37% black for school e and 76% white and 24% black for school c. It is noted that several schools claim the grids required for other schools.

EXHIBIT "A"



Formerly White Schools Experiencing Change to  
Predominantly Black Schools, 1954-55 through 1968-69

P U P I L S

School	1954-55		1965, March		1968-69	
	B	W	B	W	B	W
Barringer Elem.		190		604	668	131
Bethune		373	343	9	223	3
Elizabeth		718	5	448	270	194
First Ward		597	473		749	
Lakeview		341		400	269	147
Seversville		361	96	229	*	
Zeb Vance		221	465		257	
Villa Heights		772	23	594	796	126
Wesley Heights		225	214		*	
	-0-	3798	1619	2284 + Est. at Bruns	3232 500	601 4
					3732	605
Hawthorne Jr. High		785	25	670	492	447
Piedmont		919	121	291	428	53
	-0-	1704	146	961	920	500
Total	0	+ 5502	1765	+ 3245	4652	+ 1105
	5502		5010		5757	
	(0% B)		(35% B)		(81% B)	

Does not include

(1) Parks Hutchinson (12) white in 1954-55) closed as white (not needed) at end of 1958-59 nor North Charlotte (261 white in 1954-55) closed: assigned to new Highland 1955-56.

(2) Seven all-black schools which were closed in 1966-67 to eliminate dual-school boundaries - - Crestdale, Gunn, Ada Jenkins, Plato Price, Sterling, Torrence-Lytle, Woodlawn 97 + 696 + 431 + 505 + 699 + 1005 + 360 or 3793 black students, as reported March 6, 1965.

(3) Three all-black schools: Biddleville, Morgan + Myers Street 434 + 305 + 820 (1559 in 1965) or 390 + 211 + 559 = (1160 in 1967-68)

and all-white Woodlawn school (273).

--These four along with Seversville\* and Wesley Heights\* were closed at end of 1967-68.



**Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools**

(Filed November 21, 1969)

On three different occasions this Court has urged, encouraged and requested the defendant School Board to carry out its constitutional duty to desegregate the Charlotte-Mecklenburg public schools. The Court has literally leaned over backwards to seek voluntary compliance by the Board. Even in its last order, in rejecting additional delay to submit a plan, the Court left the opportunity open to the Board for additional time to comply by merely making some showing now of the Board's intent to implement its obligation at some definite time in the future. Despite these efforts, however, the Board now unequivocally, defiantly and contumaciously advises the Court that it will not now, nor in the future, carry out its constitutional responsibilities.

Irrespective of whether the Court's directives are constitutionally mandated, and plaintiffs submit that they are and further that they are required to be implemented with more haste than the Court has heretofore required, the Board is constitutionally obligated to implement these directives pending some change, modification or vacation by this or some other Court. *Walker v. City of Birmingham*, 388 U.S. 307, 18 L.ed 2d 1210; *United States v. Mine Workers*, 330 U.S. 258, 91 L.ed. 884; *Howat v. Kansas*, 258 U.S. 181, 66 L.ed 550. As the Supreme Court stated in *Walker*: "This Court cannot hold that the petitioners were constitutionally free to ignore all the procedures of the law and [disobey the directives of the Court] . . . . [R]espect for judicial process is a small price to pay for the civilizing hand of law, which alone can give abiding meaning to constitutional freedom." 388 U.S. at 321, 18

*Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools*

L.ed 2d at 1220. Here this Court has unequivocally directed a plan for complete desegregation of the Charlotte-Mecklenburg public schools. Notwithstanding this directive, however, the defendants, by the Amendment to Plan for Further Desegregation of Schools, in utter contempt of the Court's order, have simply refused to comply. Plaintiffs, therefore, respectfully submit that they are not only entitled to an order requiring defendants, and each of them, to show cause why they should not be held in contempt, *Walker v. City of Birmingham, supra*, but certainly now to an order appointing educational consultants to devise a plan for complete and immediate desegregation of the school system. Cf. *Dowell v. Board of Education of Oklahoma City Public Schools*, 244 F. Supp. 971 (W.D. Okla. 1965), aff'd in part 375 F.2d 158 (10th Cir. 1967), cert. den., 387 U.S. 931, 18 L.ed. 2d 993; *Alexander v. Holmes County Board of Education*, — U.S. — (No. 632).

1. The Board's response to the Court's order of November 7, 1969 does no more than reiterate the rejected request for more time. The Board rejects any affirmative obligation to take appropriate steps to disestablish the segregated school system it has created. *Green v. School Board of New Kent County*, 391 U.S. 430, 20 L.ed. 2d 716; *NLRB v. Newport News Shipbuilding and Dry Dock Company*, 308 U.S. 241, 84 L.ed. 219; *United States v. Crescent Amusement Company*, 323 U.S. 173, 89 L.ed. 160; *Standard Oil Company v. United States*, 221 U.S. 1, 55 L.ed. 619. The Board questions "tipping", and well it should for the record clearly demonstrates that "tipping" has been caused by the Board's own action and conduct. See Plaintiffs' Further Response filed on November 3, 1969. The Board

*Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools*

then inquires what are its duties, when this Court, the Fourth Circuit and the Supreme Court have clearly instructed the Board with respect to its duties:

The pattern of separate "white" and "Negro" schools in the [Charlotte-Mecklenburg] school system established under compulsion of state laws is precisely the pattern of segregation to which Brown I and Brown II were particularly addressed, and which Brown I declared unconstitutionally denied Negro school children equal protection of the laws. . . . [S]chool systems were *required* by Brown II "to effectuate a transition to a racially nondiscriminatory school system." . . . The School Board contends that it has fully discharged its obligation by adopting a plan by which every student, regardless of race, may "freely" choose the school he will attend. The Board attempts to cast the issue in its broadest form by arguing that its "freedom-of-choice" plan may be faulted only by reading the Fourteenth Amendment as universally requiring "compulsory integration," a reading it insists the wording of the Amendment will not support. But that argument ignores the thrust of Brown II. In the light of the command of that case, what is involved here is the question whether the Board has achieved the "racially nondiscriminatory school system" Brown II held must be effectuated in order to remedy the established unconstitutional deficiencies of its segregated system. In the context of the State-imposed segregated pattern of long standing, the fact that in 1965 the Board opened the doors of the former "white" school to Negro children and of the "Negro" school to white children merely begins, not ends, our in-

*Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools*

quiry. . . . Brown II was a call for the dismantling of well-entrenched dual systems tempered by an awareness that complex and multifaceted problems would arise which would require time and flexibility for a successful resolution. *School boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch. . . . Green*, 391 U.S. at 435-438, 18 L.ed. 2d at 722-723. (Emphasis added.)

Further delay has now been clearly enjoined. *Green*, *supra*; *Alexander v. Holmes County Board of Education*, — U.S. — (No. 632) and the Court has been directed to take immediate steps which will disestablish the segregated school system.

2. Defendants propose to restrict freedom-of-choice, allowing limited racial majority to minority situations, but also to allow transfers in hardship cases as "determined on the basis of uniform rules developed by the administrative staff". Defendants' past practices and present defiance of the directives of the Court clearly entitled plaintiffs to some express constitutional standards which can be shown will not further perpetuate this racially dual school system.

3. Defendants further promise to hire and assign teachers and school personnel without regard to race, the same promise made in 1965 which the Court found in April, 1969 had not been implemented.

*Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools*

4. Defendants finally promise to withhold construction on 21 proposed projects while proceeding with 24 projects. Defendants contend that the 24 projects will not affect desegregation. There has been no showing even as to the 24 projects that they will not adversely affect whatever plan may subsequently be devised and directed by the Court. Plaintiffs submit that pending the approval of a plan by the Court, or at least some showing by the defendants, all construction and additions should be enjoined.

5. The Court has been further directed to devise its own plan and to insure its prompt and effective implementation, particularly where school officials simply refuse to do so. *Alexander v. Holmes County Board of Education, supra*, and may do so without further hearings. While the Court may hear and consider objections by the Board to the Court's directed plan, such is permitted only after the Board has fully complied in all respects with the plan directed. *Alexander, supra*.

Plaintiffs, therefore, respectfully submit and pray that the Court reject the defendants' Amendment to Plan for Further Desegregation of Schools; that the Court appoint educational consultants to devise a plan for complete desegregation to be instituted forthwith; that the Court direct that the expenses of the educational consultants be borne by the defendants; that the Court enjoin any further construction or additions pending the complete implementation of the plan directed by the Court; that the Court order that the defendants, and each of them, immediately show cause why they should not be held in contempt of the Court's orders; that the Court award plaintiffs' costs herein, including reasonable counsel fees; that the Court

*Plaintiffs' Response to Defendants' Amendment to Plan  
for Further Desegregation of Schools*

retain jurisdiction of this cause and award plaintiffs such  
other and further relief as the Court may deem the plain-  
tiffs entitled.

Respectfully submitted,

/s/ J. LEVONNE CHAMBERS

CONRAD O. PEARSON

203½ East Chapel Hill Street  
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON  
& LANNING

216 West Tenth Street  
Charlotte, North Carolina

JACK GREENBERG

JAMES M. NABRIT, III

NORMAN CHACHKIN

10 Columbus Circle  
New York, New York

*Attorneys for Plaintiffs*

### Opinion and Order dated December 1, 1969

On April 23, June 20 and August 15, 1969, the defendant school board was ordered to file plans to desegregate the schools of Charlotte and Mecklenburg County, North Carolina. The defendants have admitted their duty to desegregate the schools; considerable progress has been made toward desegregation of faculties; and progress, previously noted, has been made in some other areas. The schools, however, remain for the most part unlawfully segregated. The facts supporting that conclusion in all the court's previous orders are reiterated here.

The issue is what to do pursuant to the board's latest plan, filed November 17, 1969. The plan recites the following ostensible purpose:

"The Board of Education has embarked upon a comprehensive program for the purpose of restructuring attendance lines involving all schools and all students served by the system. The primary purpose of this program is to achieve further desegregation in as many schools as possible \* \* \*."

The plan says that a computer analyst has been hired to draw up various *theoretical* possible school zone attendance lines, and that school personnel, before February 1, 1970, will draw the *actual* lines.

The details of the plan show that it contains no promise nor likelihood of desegregating the schools.

The plan and the report accompanying it say (emphasis added):

"No school district to which white students are assigned should have less than 60 per cent white student population to avoid 'tipping.'" (Plan, page 2.)

*Opinion and Order dated December 1, 1969*

"... it is the plan of this School Board to limit schools to which white students are assigned to those schools in which it is possible to provide a student population which is at least 60 per cent white." (Plan, page 5.)

• • • • •

"In determining the initial attendance lines, the ratio of black to white students will not exceed 60% white—40% black WHERE THE SCHOOL IS DESEGREGATED." (Report, page 5.)

• • • • •

"A majority of the Board of Education believes that the constitutional requirements of desegregation will be achieved by the restructuring of attendance lines, the restricting freedom of transfer, and other provisions of this plan. The majority of the Board has, therefore, discarded further consideration of pairing, grouping, clustering and transporting." (Plan, page 6.)

The strongest claim made in the plan with respect to the all-black schools is that among 43 elementary schools in the densely populated areas of Charlotte it is "theoretically [school board's emphasis] possible to populate these schools with the following ratios of black students: . . . Seven (7) schools in which the black student population is 100 per cent." (Plan, pages 3 and 4.) Since the 100% black elementary schools in the system (Billingsville, Marie Davis, Double Oaks, First Ward, Lincoln Heights, Oaklawn and University Park) number exactly seven, this language obviously proposes that these seven schools will remain all-black.

The plan contains no factual information nor estimate regarding plans for desegregation of the 31 other elemen-



*Opinion and Order dated December 1, 1969*

tary schools, the 20 junior high schools, and the 10 senior high schools in the system.

Concerning faculty desegregation the plan says:

**"During the 1970-71 school year, the Board of Education will staff each school so that the faculty at each school will be *predominantly* white and, *where practicable* will reflect the ratio of white and black teachers employed in the total faculty of the school system." (Plan, page 7.)**

With regard to the physical facilities, the court on August 15, 1969, ordered the defendants to produce by November 17 "A detailed report showing, complete with figures and maps, the location and nature of each construction project proposed or under way, and the effect this project may reasonably be expected to have upon the program of desegregating the schools." In response to that order, the plan lists the names of 21 out of 91 projects, expresses a few opinions and conclusions about the building program, and promises a partial study by February 1, 1970 and a "general long range study" "*by June of 1970,*" but it sheds no factual light on the effect of any part of the building program on the segregation issue. Since the board has, in seven months, failed to produce a program for desegregation, it is only natural that they can not predict the effect of any particular building project on such a program. The court has yet not received information necessary to appraise the effects of current building activity on the current unprogrammed course of desegregation.

When the plan is understood, it boils down to this:

1. It proposes to re-draw school zone lines, and to restrict freedom of choice, which the court had already

*Opinion and Order dated December 1, 1969*

advised the board to eliminate except where it would promote desegregation. It states no definable desegregation goals.

2. The "60-40" ratio is a one-way street. The plan implies that there will be no action to produce desegregation in schools with black populations above 40%, *and that no white students are to be assigned to such schools.*

3. Continued operation of all seven of the all-black elementary schools would be assured. The same would appear to be true for the entire group of 25 mostly "black" schools, mentioned in the court's November 7 order, which serve 16,197 of the 24,714 black students in the system.

4. Transportation to aid children transferring out of segregated situations (which was ordered by the court on April 23 as a condition of any freedom of transfer plan, *and which was a part of this plan as advertised in the board's October 29 report*) has been eliminated from the plan as filed with the court. Inevitable effects of this action would be to violate the court order and to leave the children recently re-assigned from seven closed black inner-city schools with no way to reach the suburban schools they now attend! This is *re-segregation*.

5. Other methods (pairing, grouping, clustering of schools) which could reduce or eliminate segregation—and which the board, on October 29 when it was asking for a time extension, promised to consider—have now been expressly left out of the plan.

6. No time is set to complete the job of faculty and pupil desegregation.

*Opinion and Order dated December 1, 1969*

7. In the written argument ("Report") filed with the plan, with the candor characteristic of excellent attorneys, the board's attorneys say:

"It is important that the Court does not construe the information submitted in the plan relating to racial ratios of elementary schools as being in the nature of a guarantee by the Board since it is anticipated *the results of restructuring the attendance lines may produce a greater or lesser degree of desegregation, the extent of which cannot be determined at this time.*" (Report, page 4; emphasis added.)

The defendants have the burden to desegregate the schools and to show any plan they propose will desegregate the controls. They have not carried that burden. Re-drawing school zone lines won't eliminate segregation unless the decision to desegregate has first been made.

**THE SCHOOLS ARE STILL SEGREGATED**

The extent to which the schools are still segregated was illustrated by the information set out in previous orders including the order of November 7, 1969. Nearly 13,000 out of 24,714 black students still attend schools that are 98% to 100% black. Over 16,000 black students still attend predominantly black schools. Nine-tenths of the faculties are still obviously "black" or "white." Over 45,000 out of 59,000 white students still attend schools which are obviously "white."

**THE RESULT IS UNEQUAL EDUCATION**

The following table further illustrates the results. Groups A and B show that sixth graders, in the seven

*Opinion and Order dated December 1, 1969*

100% black schools the plan would retain, perform at about fourth grade levels, while their counterparts in the nine 100% white elementary schools perform at fifth to seventh grade levels. Group C shows that sixth graders in Barringer, which changed in three years from 100% middle income white to 84% Negro, showed a performance drop of  $1\frac{1}{2}$  to 2-years. Group D shows however that Randolph Road, 72% white and 28% Negro, has eighth grade performance results approximately comparable to Eastway, which is 96% white, and Randolph results are approximately two years ahead of all-black Williams and Northwest. Until unlawful segregation is eliminated, it is idle to speculate whether some of this gap can be charged to racial differences or to "socio-economic-cultural" lag.

If the courts should accept the defendants' contention that all they have to do is re-draw attendance lines and allow a type of freedom of choice, two-thirds or more of the black children in Mecklenburg County would be relegated permanently to this kind of separate but unequal education.

AVERAGE ACHIEVEMENT TEST SCORES, GRADE 6, REPORTED IN  
GRADE EQUIVALENT, 1965-66/1968-69

GROUP A - 100% Black  
Elementary

	WM	PM	SP	LANG	ACM	ACN	AAPP	SS	SC
Billingsville	42/43	42/44	49/48	39/41	43/45	45/48	43/41	43/45	39/40
Marie Davis	44/40	42/40	49/46	35/36	41/39	45/44	41/37	44/40	41/37
Double Oaks	43/40	42/41	50/48	39/36	40/39	44/46	43/41	48/44	42/40
First Ward	45/44	44/44	52/49	44/42	45/43	46/48	43/41	47/46	42/41
Lincoln Heights	44/44	42/45	50/53	42/47	41/45	50/49	43/44	41/49	40/47
Oaklaw	44/44	44/47	51/48	43/43	40/44	46/48	41/44	46/46	41/43
University Park									

GROUP B - 100% White  
Elementary

Devonshire	52/59	54/62	57/60	57/64	49/53	53/63	55/59	57/64	57/65
Hidden Valley	/59	/62	/61	/62	/51	/60	/59	/64	/67
Merry Oaks	62/60	66/66	66/67	66/71	53/54	59/65	67/64	70/68	73/72
Montclair	66/67	68/72	69/70	71/76	58/60	61/67	66/68	70/71	76/77
Pinewood	67/64	68/68	71/68	71/71	58/61	62/67	68/71	72/71	73/70
Rama Road	68/67	68/72	70/71	73/76	58/61	64/67	70/70	72/73	76/78
Shamrock Gardens	59/56	61/57	66/57	64/62	52/53	58/57	63/57	65/61	62/61
Thomasboro	58/55	59/55	63/58	59/58	52/51	55/57	60/56	63/59	64/61
Windsor Park	61/64	63/68	61/66	65/69	55/53	59/63	63/62	65/69	67/72
	61/46	63/46	64/50	66/42	53/45	59/48	64/44	65/47	68/45
GROUP C - Barringer									

\*100% white in 1965  
# 84% black in 1968-69

AVERAGE ACHIEVEMENT TEST SCORES, GRADE 8, REPORTED IN  
GRADE EQUIVALENT, 1965-66/1968-69

GROUP D - Junior High

	PM	SP	LANG	ACM	ACN	AAPP	SS	SC
Randolph Road (28% black)	55/52	67/64	55/52	52/49	58/61	58/55	56/56	55/56
Williams (100% black)	59/58	73/71	59/56	54/50	60/61	58/58	59/57	59/58
Northwest (100% black)	84/82	85/86	83/81	74/67	79/82	81/75	83/82	87/87
Eastway (96% white)								

*Opinion and Order dated December 1, 1969*

**THE LAW STILL REQUIRES DESEGREGATION**

Segregation in public schools was outlawed by the decisions of the Supreme Court in *Brown v. Board of Education*, 347 U. S. 483 (1954) and 349 U. S. 294 (1955).

The first *Brown* opinion (*Brown I*) held that racial segregation, even though physical facilities and other tangible factors might be equal, deprives Negro children of equal educational opportunities. The Court recalled prior decisions that segregation of graduate students was unlawful because it restricted the student's "ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." The Court said:

"Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

Quoting a lower court opinion, the Supreme Court continued:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children

*Opinion and Order dated December 1, 1969*

and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.'

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. *Separate educational facilities are inherently unequal.* \* \* \*"  
(Emphasis added.)

\* \* \* \* \*

"\* \* \* Such segregation has long been a *nationwide problem, not merely one of sectional concern.*" (Emphasis added.)

The selection of cases for the *Brown* decision demonstrates the nationwide reach of that concern; Brown lived in Kansas and the defendant board of education was that of Topeka, Kansas; defendants in companion cases included school authorities in Delaware and the District of Columbia. Later important cases have involved not just Southern schools, but also schools in New York, Chicago, Ohio, Denver, Oklahoma City, Kentucky, Connecticut and other widely scattered places.

Court decisions setting out the principles upon which the various orders of this court have been based include the following:

#### SUPREME COURT CASES

*Alexander v. Holmes County* (Mississippi), No. 632 (October 29, 1969).

*Brown v. Board of Education of Topeka* (Kansas), 347 U. S. 483 (1954), 349 U. S. 294 (1955).

*Cooper, Members of the Board of Directors of the Little Rock (Arkansas) Independent School District v. Aaron*, 358 U. S. 1 (1958).



*Opinion and Order dated December 1, 1969*

*Green v. County School Board of New Kent County (Virginia)*, 391 U. S. 430 (1968).

*Griffin v. County School Board of Prince Edward County (Virginia)*, 377 U. S. 218 (1964).

*Keyes v. Denver (Colorado) School District Number 1*, Application for Vacation of Stay (Justice Brennan, Supreme Court, August 29, 1969).

*Monroe v. Board of Commissioners of the City of Jackson (Tennessee)*, 391 U. S. 450 (1968).

*Raney v. Board of Education of the Gould School District (Arkansas)*, 391 U. S. 443 (1968).

*United States v. Montgomery County (Alabama) Board of Education*, 395 U. S. 225 (1969).

## CIRCUIT COURT CASES

*Brewer v. School Board of City of Norfolk (Virginia)*, 397 F.2d 37 (4th Cir., 1968).

*Felder v. Harnett County (North Carolina) Board of Education*, 409 F.2d 1070 (4th Cir., 1969).

*Wanner v. County School Board of Arlington County (Virginia)*, 357 F.2d 452 (4th Cir., 1966).

*Henry v. Clarksdale (Mississippi) Municipal Separate School District*, 409 F.2d 682 (5th Cir., 1969) (petition for cert. filed, 38 U.S.L.W. 3086) (U. S. 9/2/69) (No. 545).

*United States v. Greenwood (Mississippi) Municipal Separate School District*, 406 F.2d 1086 (5th Cir., 1969) (cert. denied, 395 U. S. 907 (1969)).

*United States v. Hinds County School Board*, Nos. 28030 and 28042 (5th Cir., July 3, 1969).



*Opinion and Order dated December 1, 1969*

*Clemons v. Board of Education of Hillsboro, Ohio*, 228 F.2d 853 (6th Cir., 1956) (*cert. denied*, 350 U. S. 1006).

*United States v. School District 151 of Cook County, Illinois* (Chicago), 404 F.2d 1125 (7th Cir., 1968) (*rehearing denied*, January 27, 1969).

DISTRICT COURT CASES

*Eaton v. New Hanover County* (North Carolina) *Board of Education*, No. 1022 (E.D. N.C., July 14, 1969).

*Keyes v. School District Number One, Denver* (Colorado), 303 F. Supp. 289 (D. Colo., 1969).

Some of these principles which apply to the Charlotte-Mecklenburg situation are:

1. Racial segregation in public schools is unlawful, *Brown I*; *Green v. New Kent County, Virginia*; *Clemons v. Hillsboro, Ohio*. Such segregation is unlawful even though not required nor authorized by state statute, *Clemons v. Hillsboro*. Acts of school boards perpetuating or restoring separation of the races in schools are *de jure*, unlawful discrimination, *Cooper v. Aaron*; *Keyes v. Denver, Colorado School Board* (August 14, 1969), approved by the Supreme Court of the United States two weeks later, *Keyes v. Denver*, U. S. Supreme Court, August 29, 1969.

2. Drawing school zone lines, like "freedom of transfer," is not an end in itself; and a plan of geographic zoning which perpetuates discriminatory segregation is unlawful, *Keyes v. Denver*; *Brewer v. Norfolk*; *Clemons v. Hillsboro*; *Henry v. Clarksdale, Mississippi*; *United States v. Hinds County*; *United States v. Greenwood*.

*Opinion and Order dated December 1, 1969*

3. No procedure, plan, method or gimmick will legalize state maintained segregation. The constitutional test of a plan is whether it gets rid of segregation in public schools, and does it "now," *Green v. New Kent County*; *Monroe v. Jackson*; *Alexander v. Holmes County*.

4. Good faith of the school authorities, if it exists, does not excuse failure to desegregate the schools. "... The availability to the Board of other more promising courses of action may indicate a lack of good faith; and at the least it places a heavy burden upon the Board to explain its preference for an apparently less effective method." *Green v. New Kent County*. (Emphasis added.)

5. "Natural boundaries" for school zones are not constitutionally controlling. If a zone encloses a black school in a district like this one where white students are in a heavy (71% white, 29% black) majority, the "naturalness" of the boundary or the existence of reasons for the boundary unrelated to segregation does not excuse the failure to desegregate the school, *Keyes v. Denver, Colorado*; *Henry v. Clarksdale*; *Clemons v. Hillsboro*.

6. It is appropriate for courts to require that school faculties be desegregated by formula, if necessary, and by a definite time or on a definite schedule, *United States v. Montgomery*. Faculty assignments so that each school has approximately the same ratio of black teachers as the ratio of black teachers in the school system at large are appropriate and necessary to equalize the quality of instruction in this school system, *United States v. Montgomery*; *United States v. Cook County*; *Eaton v. New Hanover County* (North Carolina).

*Opinion and Order dated December 1, 1969*

7. Bus transportation as a means to eliminate segregation results of discrimination may validly be employed, *Keyes v. Denver*; *United States v. Cook County*, Illinois, 404 F.2d 1125, 1130 (1969).

8. Race may be considered in eliminating segregation in a school system, *Wanner v. Arlington County, Virginia*; *United States v. Cook County*; *Green v. New Kent County*.

9. "... Whatever plan is adopted will require evaluation in practice and the court should retain jurisdiction until it is clear that state imposed segregation has been completely removed." *Green v. New Kent County*; *Raney v. Board of Education*.

10. The alleged high cost of desegregating schools (which the court does not find to be a fact) would not be a valid legal argument against desegregation, *Griffin v. School Board*; *United States v. Cook County, Illinois*.

11. The fact that public opinion may oppose desegregating the schools is no valid argument against doing it, *Cooper v. Aaron*, *Green v. New Kent County*; *Monroe v. Jackson*.

12. Fixed ratios of pupils in particular schools will not be set. If the board in one of its three tries had presented a plan for desegregation, the court would have sought ways to approve variations in pupil ratios. In default of any such plan from the school board, the court will start with the thought, originally advanced in the order of April 23, that efforts should be made to reach a 71-29 ratio in the various schools so that there will be no basis for contending that one school is racially different from the others, but to understand that variations from that norm may be unavoidable.

*Opinion and Order dated December 1, 1969*

13. School location and construction and renovation and enlargement affect desegregation. Courts may properly restrain construction and other changes in location or capacity of school properties until a showing is made that such change will promote desegregation rather than frustrate it, *Felder v. Harnett County*.

14. Where pupils live must not control where they are assigned to school, if some other approach is necessary in order to eliminate racial segregation, *Green v. New Kent County*; *Keyes v. Denver*; *Eaton v. New Hanover County*, *North Carolina Board of Education*.

15. On the facts in this record and with this background of *de jure* segregation extending full fifteen years since *Brown I*, this court is of the opinion that all the black and predominantly black schools in the system are illegally segregated, *Green v. New Kent County*; *Henry v. Clarksdale*; *United States v. Hinds County*.

16. The school board is endowed by Chapter 115, Section 176 of the General Statutes of North Carolina with "full and complete" and "final" authority to assign students to whatever schools the board chooses to assign them. The board may not shift this statutory burden to others. In *Green v. New Kent County*, the Supreme Court said of "freedom of choice":

"Rather than foster the dismantling of the dual system the plan has operated simply to burden children and their parents with a responsibility which *Brown II* placed squarely on the School Board. The Board must . . . fashion steps which promise realistically to convert

*Opinion and Order dated December 1, 1969*

promptly to a system without a 'white' school and a 'Negro' school but just schools."

17. Pairing of grades has been expressly approved by the appellate courts, *Green v. New Kent County*; *Felder v. Harnett County*. Pairing, grouping, clustering, and perhaps other methods may and will be considered and used if necessary to desegregate the schools.

18. Some 25,000 out of 84,000 children in this county ride school busses each day, and the number *eligible* for transportation under present rules may be more than 30,000. A transportation system already this massive may be adaptable to effective use in desegregating schools.

19. The school board has a duty to promote acceptance of and compliance with the law. In a concurring opinion in *Cooper v. Aaron*, 358 U. S. at 26 (1958), Justice Frankfurter said:

*"That the responsibility of those who exercise power in a democratic government is not to reflect inflamed public feeling but to help form its understanding, is especially true when they are confronted with a problem like a racially discriminating public school system. This is the lesson to be drawn from the heartening experience in ending enforced racial segregation in the public schools in cities with Negro populations of large proportions. Compliance with decisions of this Court, as the constitutional organ of the supreme Law of the Land, has often, throughout our history, depended on active support by state and local authorities. It presupposes such support. To withhold it, and indeed to use political power to try to paralyze the supreme Law,*

*Opinion and Order dated December 1, 1969*

precludes the maintenance of our federal system as we have known and cherished it for one hundred and seventy years.

"Lincoln's appeal to 'the better angels of our nature' failed to avert a fratricidal war. But the compassionate wisdom of Lincoln's First and Second Inaugurals bequeathed to the Union, cemented with blood, a moral heritage which, when drawn upon in times of stress and strife, is *sure to find specific ways and means to surmount difficulties that may appear to be insurmountable.*" (Emphasis added.)

**Order**

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. All facts found in this and previous orders, and all competent evidence including plans, reports and admissions in pleadings in the record are relied upon in support of this order.
2. The November 17 plan entitled "AMENDMENT TO PLAN FOR FURTHER DESEGREGATION OF SCHOOLS" is disapproved.
3. The defendants are directed to desegregate faculties in all the schools effective not later than September 1, 1970, so that the ratio of black teachers to white teachers in each school will be approximately the same as the ratio of black teachers to white teachers in the entire school system.
4. A consultant will be designated by the court to prepare immediately plans and recommendations to the court for desegregation of the schools. The legal and practical considerations outlined in detail in earlier parts of this opinion and order are for his guidance.
5. The defendants are directed to cooperate fully with the consultant. This cooperation will include but not be limited to providing space at the headquarters of the board of education in which he may work; paying all of his fees and expenses; providing stenographic assistance and the help of business machines, draftsmen and computers if requested, along with telephone and other communications services. He shall have full access to maps, drawings, reports, statistics, computer studies, and all information about all phases of the school system which may be necessary to prepare plans or reports. He shall be supplied with

### Order

any studies and plans and partial plans for desegregation of the schools which the defendants may have. The defendants will provide this consultant with full professional, technical and other assistance which he may need in familiarizing himself with the school system and the various problems to be solved in desegregating the schools. Any and all members of the board of education who wish to cooperate in the preparation of such a plan may do so. The cooperation of the school administrators and staff will be requested and will be appreciated.

6. Action on the motion of plaintiffs for an order directing immediate desegregation of the entire system is deferred.

7. Further orders with reference to restraining construction and enlargement of schools are deferred.

8. Motion has been filed for a citation of the school board members for contempt of court. Litigants are bound by court orders and may be punished for disobedience of such orders even though such orders may ultimately be reversed on appeal, *Walker v. Birmingham*, 388 U. S. 307 (1967). The evidence might very well support such citations. Nevertheless, this is a changing field of law. Despite the peremptory warnings of *New Kent County* and *Holmes County*, strident voices, including those of school board members, still express doubt that the law of those cases applies to Mecklenburg County. This district court claims no infallibility. Contempt proceedings against uncompensated public servants will be avoided if possible. Action on the contempt citation is deferred.

9. If the members of the school board wish to develop plans of their own for desegregation of the schools, with-



***Order***

out delaying or interfering with the work of the consultant, they may proceed to do so, and if they wish any guidance from the court they will find their guidance in the previous opinions and orders of this court and in the court decisions and principles set out in this opinion and order.

10. Jurisdiction is retained for further orders as may be appropriate.

This is the 1st day of December, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Order dated December 2, 1969**

The court appoints as a consultant under the terms outlined in the court's order of December 1, 1969, Dr. John A. Finger, Jr., of Providence, Rhode Island.

The school board and staff are directed to cooperate with Dr. Finger as set out in the December 1, 1969 order.

This the 2nd day of December, 1969.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County**

**(Filed January 20, 1970)**

Plaintiffs, by their undersigned counsel, respectfully move the Court for an order directing Dr. John A. Finger, Jr. to immediately file with the Court his plan for the desegregation of schools and to order the defendants to implement Dr. Finger's plan immediately and, as grounds therefor, show the following:

1. On April 23, June 20 and August 15, 1969, the Court found the defendants to be operating an unconstitutionally segregated school system. Each Order required the defendants to file a plan for the desegregation of the schools. Each plan was blatantly defective and was rejected by the Court.

2. On December 1, 1969, the Court entered an Opinion and Order rejecting the plan filed by the Board on November 17, 1969 and determined that a consultant would be appointed by the Court to prepare immediate plans and recommendations to the Court for the desegregation of the schools. The following day, December 2, the Court entered an Order appointing Dr. John A. Finger, Jr. of Providence, Rhode Island to act as a consultant to the Court in preparing a plan for the desegregation of the schools.

3. Plaintiffs are informed that Dr. Finger has completed the essential elements of his plans and is in the process of refining and perfecting his proposal.

4. On October 29, 1969, the Supreme Court unanimously reversed the United States Court of Appeals for the Fifth

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

Circuit which had granted delays for the desegregation of schools in Mississippi.

"Under explicit holdings of this Court, the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. *Griffin v. School Board*, 377 U.S. 218, 234 (1964); *Green v. School Board of New Kent County*, 391 U.S. 430, 438, 439, 442 (1968)."

*Alexander v. Holmes County Board of Education*, 396 U.S. 19 (1969).

5. The day following this Court's Opinion and Order disapproving of the defendants' November 17 plan, the United States Court of Appeals for the Fourth Circuit entered an Order in five cases, three from North Carolina.

"We consolidate these appeals for hearing and disposition in light of *Alexander v. Holmes County Board of Education*, 396 U.S. 19 (October 29, 1969). That recent decision of the Supreme Court teaches '[u]nder explicit holdings of this Court the obligation of every school district is to eliminate dual school systems at once and to operate now and hereafter only unitary schools.' The clear mandate of the Court is immediacy. Further delays will not be tolerated in this circuit. No school district may continue to operate a dual system based on race. Each must function as a unitary system within which no person is to be excluded from any school on the basis of race."

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

*Nesbit v. Statesville City Board of Education*, No. 13,229 — F.2d. — (Dec. 2, 1969). The three school districts from North Carolina were given until the end of the Christmas vacation within which to implement plans for complete desegregation of the schools. The two districts from Virginia were given until the end of the first semester. Each district was required to integrate faculties as well.

"All plans must include provisions for integration of the faculty so that the ratio of Negro and white faculty members of each school shall be approximately the same as the ratio throughout the system."

6. Following the Supreme Court decision in *Alexander v. Holmes County*, the United States Court of Appeals for Fifth Circuit heard and decided a large number of cases from various states within the Circuit. The Court *en banc* unanimously decided that complete integration would not be required until the Fall of 1970. In several of the cases where the plaintiffs were represented by private counsel, petitions for certiorari were filed with the United States Supreme Court. The petitioners requested that the Supreme Court order the school districts to prepare for complete desegregation by February 1, 1970 pending a decision by the Court on the merits. The petitioners were granted the preliminary relief which they sought. *Carter v. West Feliciano Parish School Board*, — U.S. — (Dec. 13, 1969); *Davis v. Board of School Commissions of Mobile County*, — U.S. —; and *Bennett v. Evans County Board of Education*, — U.S. — (Opinions of Justice Black in Chambers, December 13, 1969). On January 14,

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

1970, the Court in a per curiam and decided without oral argument that the Court of Appeals had misread *Alexander v. Holmes County Board of Education*.

"Insofar as the Court of Appeals authorized deferral of student desegregation beyond February 1, 1970, that Court misconstrued our holding in *Alexander v. Holmes County Board of Education*, — U.S. —. Accordingly, the petitions for writs of certiorari are granted, the judgments of the Court of Appeals are reversed and the cases remanded to that Court for further proceedings consistent with this opinion. The judgments in these cases are to issue forthwith."

*Carter v. West Feliciano Parish School Board*, — U.S. — (Jan. 14, 1970). The decision of the Court, representing the views of four members, was concurred by Mr. Justice Harlan and Mr. Justice White. They discussed what they thought were the practical requirements of *Alexander* and found a "maximum" timetable from a Court finding of non-compliance with the requirements of *Green* to the time of the actual operative effect of the relief to be eight weeks. Justices Black, Douglas, Brennan and Marshall found this view to be a "retreat" from the holding in *Alexander v. Holmes County Board of Education*. Justices Berger and Stewart dissented, being of the view that the cases should not be decided without oral argument.

7. Findings of non-compliance with the requirements of the *Green* case were made by the Court on April 23, June 20, August 15 and December 1, 1969. Eight weeks, the

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

"maximum" timetable which Justices Harlan and White viewed as permissible from the date of a finding of non-compliance, a determination which four others viewed as a "retreat" from *Alexander*, has long since passed since the decisions of April, June and August. Eight weeks from December 1, 1969 would be January 26, 1970. That would clearly be the outside date for the implementation of a comprehensive plan for the desegregation of schools in this case.

8. Dr. Finger has not yet filed his plan with the Court. However, even if his plan remains somewhat rough, that plan should be implemented now and any suggested modifications, by the Board, by the plaintiffs or possibly by Dr. Finger can be made later.

"It would suffice that such measures will tend to accomplish the goals set forth in *Green*, and, if they are less than educationally perfect, proposals for amendments are in no way to suspend the relief granted in accordance with the requirements of *Alexander*."

*Carter v. West Feliciano Parish School Board*, — U.S. — (1969) (concurring opinion of Justice Harlan).

"The intent of *Alexander*, as I see it, was that the burden in actions of this type should be shifted from plaintiffs seeking redress for a denial of constitutional rights, to defendant school boards. What this means is that upon a prima facie showing of noncompliance with this court's holding in *Green v. New Kent County School Board*, 291 U.S. 430 (1968), plaintiffs may apply

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

for immediate relief that will at once extirpate any lingering vestiges of a constitutionally prohibited dual school system."

(Concurring opinion of Justice Harlan.)

9. In this Court's Opinion and Order of December 1, 1969, the Court held:

"12. Fixed ratios of pupils in particular schools will not be set. If the board in one of its three tries had presented a plan for desegregation, the court would have sought ways to approve variations in pupil ratios. In default of any such plan from the school board, the court will start with the thought, originally advanced in the order of April 23, that efforts should be made to reach a 71-29 ratio in the various schools so that there will be no basis for contending that one school is racially different from the others, but to understand that variations from that norm may be unavoidable. . . .

15. On the facts in this record and with this background of *de jure* segregation extending full fifteen years since *Brown I*, this court is of the opinion that all the black and predominantly black schools in the system are illegally segregated, *Green v. New Kent County*; *Henry v. Clarksdale*; *United States v. Hinds County*."

In its Order, the Court invited the Board to submit a plan conforming to the requirements established by the Court.



*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

"If the members of the school board wish to develop plans of their own for desegregation of the schools without delaying or interfering with the work of the consultant, they may proceed to do so, and if they wish any guidance from the court they will find their guidance in the previous opinions and orders of this court and in the court decisions and principles set out in this opinion and order."

The School Board decided not to appeal from the decision of December 1, 1969 as it had decided not to appeal from the previous orders of the Court. Nor has it submitted a plan as it was invited to do. Instead, members of the Board have continued to criticize the law of the land and to pretend that they do not know what the Court means when it says that all-black schools in this system are constitutionally impermissible. The Court and the plaintiffs have waited patiently and in vain for an indication that the Board would finally accept its burden to devise a constitutional plan for the desegregation of the schools. Since the Board has refused to assume its responsibility, the Court must act to vindicate the constitutional rights of children within the School System.

WHEREFORE, plaintiffs respectfully pray that the Court direct Dr. Finger to file his plan forthwith and upon receipt of his plan, order the defendants:

1. To completely implement the plan filed by Dr. Finger on or before January 26, 1970; and

*Motion for Immediate Desegregation of the Public  
Schools in Charlotte and Mecklenburg County*

2. To reassign faculty within the School System so that the ratio of black and white faculty members of each school shall be approximately the same as the ratio throughout the System and that such reassignments be implemented on or before January 26, 1970.

Respectfully submitted,

CONRAD O. PEARSON

203½ East Chapel Hill Street  
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON &  
LANNING

216 West Tenth Street  
Charlotte, North Carolina

JACK GREENBERG

JAMES M. NABRIT, III

NORMAN CHACHEKIN

10 Columbus Circle  
New York, New York

## **Plan for Desegregation of Schools**

In response to the invitation of the Court in its order dated December 1, 1969, the Board of Education submits its plan for desegregation in substitution of all prior plans for implementation in September, 1970, as follows:

### **POLICY STATEMENT**

Equal opportunity to develop all capabilities to the fullest potential is the right of every individual in a democratic society. Since this right is a basic precept of education, it becomes the responsibility of those who make educational decisions to see that equality of opportunity is provided for all.

The Charlotte-Mecklenburg Board of Education affirms the long held principle that equality of educational opportunity for all children without regard to socio-economic, ethnic, religious or racial differences is essential to the continued growth of our community and is basic to a free and open American democratic society.

The Board further believes that equality of educational opportunity can best be provided by attempting to free individuals from the burden and handicaps imposed by varied circumstances, backgrounds and environmental differences. To this end, the Board has devised an educational program which will to the greatest extent possible, provide for the equal development of all students regardless of such burdens and handicaps.

In this light, the Board of Education firmly believes further desegregation of students and professional staff will contribute to the educational and social development of all children.

*Plan for Desegregation of Schools*

## I.

## ATTENDANCE AREAS

Attendance areas are established for all schools within the Charlotte-Mecklenburg County Administrative School Unit and the boundaries thereof are hereby established as shown on maps dated January 31, 1970, identified as "Map No. 1, Attendance Areas of Elementary Schools," "Map No. 2, Attendance Areas for Junior High Schools" and "Map No. 3, Attendance Areas for Senior High Schools," copies of which are attached. Practical administrative considerations may require revision of some of the attendance lines shown on these maps to conform to streets, streams, railroads and other identifiable monuments. The administrative staff, with the approval of the Board, may make such revisions provided they do not materially affect adversely the racial mix of the schools involved. A copy of each map (together with any revisions) shall be kept at each school in the attendance areas shown thereon and shall be open to public inspection in the office of the Superintendent and at the schools.

*Board Comment:*

1. The Board has devised new and comprehensive re-structured attendance lines to achieve the degree of desegregation which it believes the Constitution requires. These outlines of the attendance lines shown on these maps have been established with the assistance of a computer system analysis which had as its purpose the identity and selection of contiguous grid areas having pupil populations that would most nearly achieve an optimum 70% white to 30% black racial mix for as many of our schools as possible.

*Plan for Desegregation of Schools*

The criteria used in the establishment of these attendance areas are as follows:

- A. Each school district must be comprised of a single set of contiguous grids. (A grid is a 2500 foot square as shown on the school attendance maps as filed as exhibits in this matter.)
- B. No combination of grids could be considered if they exceed the rated capacity of the school by 20 per cent. Further, such combinations could not underpopulate the school by more than 20 per cent.
- C. A school district could not contain the home grid of another school.
- D. A school district, if feasible, must contain the home grid in which the school is located.
- E. Wherever practicable, no school district to which white students were assigned should have less than 60 per cent white student population to avoid "tipping."

After the meeting these five tests, all possible combinations of grids were printed separately for each school. The combinations were reviewed to determine their desirability. Desirability was determined by the following factors: (1) closeness of the integration ratio to 70% white-30% black, (2) compactness of the school district and (3) combination of grids which yields a student population closest to 100% of the school's capacity.

Attached (marked Exhibit "A" and made a part hereof) is a report of Systems Analysis Associates, Inc. which reflects the scope, nature of work performed, recommendations and results achieved through their efforts in consultation with school administrative staff and the Board of Education.

*Plan for Desegregation of Schools*

2. It has been the purpose of the Board to desegregate as many of the 103 schools as possible and, in order to do so, attendance lines have been drastically restructured and gerrymandered, resulting in 100 schools having some degree of desegregation. The Board is gratified with the results of its desegregation. Sixty-eight (68) of the 103 schools in the system will have a student body composed of 10% to 41% blacks. Of the remaining 35 schools, only 25 will have less than 11% black and 10 will have more than 41% blacks.

3. The Board does not believe that it is required to supplement its restructuring of attendance lines by other techniques, all of which have the primary feature of necessitating involuntary bussing of students from one school attendance zone to another. Such compulsory transportation would violate legislative policies of the United States Congress and the State of North Carolina.

In 1964, Congress enacted 42 USCA 2000 C. et seq., commonly referred to as the HEW Act of 1964, which provides that in an action instituted by the Attorney General under such Act, the court may give "such relief as may be appropriate" with the following limitation:

*" . . . provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to assure compliance with constitutional standards . . . "* (Emphasis supplied).

*Plan for Desegregation of Schools*

The North Carolina legislative policy is expressed in G.S. Sec. 115-176.1, which specifies:

"... No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin or for the purpose of creating a balance or ratio of race, religion or national origin. Involuntary bussing of a student in contravention of this article is prohibited, and public funds shall not be used for any such bussing." (Emphasis supplied).

It is observed that the HEW Act of 1964 relates to desegregation actions instituted by the United States Attorney General, whereas the Board is involved in an action in the District Court which was instituted by private litigants. However, the purpose of each type of action is the same; namely, to secure an adjudication of the constitutional rights of all members of a class in a community who are similarly situated (i.e. black students). Compulsory measures imposed by the court cannot be dependent upon who brings the action—the United States Attorney General or private litigants. If a court is prohibited from requiring bussing to achieve a racial balance in the one instance, it must be prohibited from doing so in the other. This same limitation should be equally applicable to any court order which (although silent on the subject of transportation) can be implemented as a practical matter only by compulsory bussing.

By way of summary, the Court cannot require transportation to achieve a racial balance in our schools and voluntary action of the Board would be contrary to the law of the State of North Carolina. Under the circumstances, the Board rejected any arrangement for involuntary bussing of any student outside of his attendance area. This would



*Plan for Desegregation of Schools*

be a clear violation of the law as expressed by the United States Congress and by the North Carolina Legislature.

4. Aside from the legal reasons which prohibit involuntary transportation of a student outside his attendance area, in the judgment of the Board, educational and practical considerations preclude such action:

A. It is the judgment of the Board that the supposed benefits to be obtained from the use of extensive additional transportation to eliminate the 10 remaining black schools referred to above would be far outweighed by the resulting burdens, inconvenience and cost. Bussing in a school system as large as the Charlotte-Mecklenburg system is at best an expensive and complex operation. It is acknowledged that a large number of children are already being bussed to and from school. However, the burden, expense, hardship, inconvenience, hazards, expenditure of unproductive time and the added administrative problems occasioned by any bussing program should be minimized.

B. The Board cannot justify on any reasonable basis the very substantial additional cost and burden of the compulsory bussing that would be required for the sole purpose of effecting a desired racial mix in the remaining 10 black schools. Under the best arrangement, the Board could envision to eliminate these black schools, massive cross-bussing would require the transportation of about 11,500 black and white children—5,150 into and 5,150 out of the inner-city at the elementary level and 590 into and 590 out of the inner-city at the secondary level. This involuntary bussing would involve an approximate 15-mile trip each way (30 miles round trip) for each student moved through the heart of the business and residential sections



*Plan for Desegregation of Schools*

of the City. Pertinent information relating to such transportation is attached marked Exhibit "B".

C. A plan that generates unnecessary transportation costs and occasions unnecessary burdens and inconvenience for parents and children alike would jeopardize the public support which provides the tax and bond money upon which our schools are totally dependent for financing the already high cost of education.

D. The burden of extra bussing that would be required to desegregate each of the 10 remaining predominantly black schools would fall primarily on elementary children. The major impact of this burden would be imposed upon children who, because of their tender years, are the most illogical candidates to bear this burden.

E. The Board has retained its neighborhood school concept, although admittedly, it has been strained by the gerrymandered attendance lines adopted in this plan. It is a concept which the Board believes is beneficial to the children and enhances the support that comes when children and parents identify themselves with a particular school and its programs. A fragmentation of this type of association is not in the best interest of our schools.

5. With reference to ratios of black students in the various levels of education, attention is called to the fact that blacks comprise 30% of the elementary, 28% of the junior high and 24% of the senior high school population. To the extent possible, the Board has sought to reach these approximate ratios in each school.

*Plan for Desegregation of Schools*

## II.

## ASSIGNMENT OF PUPILS

All pupils within any attendance area shall be assigned to the school of his or her grade within such attendance area. Assignment for any school year shall be made not later than the last school day of the preceding year or as soon thereafter as possible. In the case of children enrolled during such school year, notice of assignment may be given by noting the same on the report card of the pupil thereof or any other means which will adequately insure the delivery of written notice to the parent. Except for beginners, pupils not then enrolled shall be assigned at the time of their application for enrollment. In order to undo the existing "freedom of choice" assignments heretofore permitted, such assignments will be terminated and the students involved re-assigned to the appropriate school of his or her attendance area.

## III.

CONTINUATION OF ELEMENTARY  
VOLUNTARY INNER-CITY RE-ASSIGNMENTS

In its plan submitted to the Court on July 29, 1969, the Board of Education closed certain black schools and temporarily re-assigned the students of those schools as well as the students of certain other black schools whose facilities were overcrowded. Elementary students who were re-assigned and accepted re-assignment under the plan of July 29, 1969, at their election will be assigned to the school of their present attendance provided such school offers instruction at their grade level during the 1970-1971 school term. Free transportation will be provided such students.

*Plan for Desegregation of Schools**Board Comment:*

The Board is mindful of the educational advantages and the desires of a student and his parents to continuing one's education in the school of last attendance. Therefore, the Board has made available to those elementary inner-city black students who in good spirit accepted transfer to other schools the right to continue attendance at those schools provided the grade level is offered.

## IV.

## RESTRICTED TRANSFERS

In order to encourage, facilitate and maintain desegregation, transfers from the school to which a student is originally assigned shall be allowed only on the limited basis outlined below. Any black student will be permitted to transfer only if the school to which he is originally assigned has more than 30 per cent of his race and if the school he is requesting to attend has less than 30 per cent of his race and has available space. Any white student will be permitted to transfer only if the school to which he is originally assigned has more than 70 per cent of his race and if the school he is requesting to attend has less than 70 per cent of his race and has available space. Availability of space and rules of transfer will be determined by the school administration under rules of uniform non-racial application authorized by the School Board.

In addition, transfers may be granted to students whose request for transfer evidences conditions of hardship. Hardship will be determined on the basis of uniform non-racial criteria developed by the administrative staff.

The administrative procedure for such transfers will be readily available to each student.

*Plan for Desegregation of Schools**Board Comment:*

1. Under this provision, transfers are rigidly limited to those which promote desegregation of our schools, excepting only transfers with reference to hardship situations which shall be determined on a strictly non-racial basis and which necessarily must be allowed for the effective administration of the schools and the welfare of the children involved.

2. These restrictions on transfers are designed to complement the limitations imposed by the geographic assignments and to assure the stability and permanence of the desegregation achieved by this plan. Specifically, the plan is designed to accomplish these objectives:

A. Encourage the transfer of black students from predominantly black schools or schools likely to become predominantly black to a school which will promote the permanence of a desirable racial mix.

B. Encourage white students from predominantly white or all white schools wishing to transfer to help stabilize desegregation to do so.

C. Prevent the movement of white students from predominantly black schools or schools likely to become predominantly black.

D. Prevent black students from singling out a school for attendance so that blacks predominate or nearly predominate.

3. It is believed that the foregoing restrictions will tend to minimize tipping and resegregation.

*Plan for Desegregation of Schools*

## V.

## TRANSPORTATION

Transportation will be provided to and from school for all students who are entitled thereto under State law and applicable rules and regulations promulgated by the State.

## VI.

## STABILITY OF ENROLLMENT

A student enrolled in any school after original assignment or by transfer after original assignment shall remain in the school of enrollment for the school year and no subsequent transfer will be permitted for such year except for hardship or a change of residence from one attendance area to another. In the event of change of residence, the pupil may elect to remain in the school of enrollment for the remainder of the school year. A student enrolled in a school by virtue of utilizing a restricted transfer authorized by Article IV (Restricted Transfers) shall be advanced to the next grade in such school from year to year unless such student prior to the expiration of any current year gives notice of his or her wish to return to the school serving the attendance area of his residence. A pupil enrolled in a school in an attendance area other than that of his or her residence shall be advanced at the appropriate time to the junior or senior high school, as the case may be, serving the attendance area in which the pupil resides. This provision shall not have the effect of denying or enlarging such pupil's right to transfer to another school of his grade pursuant to Article IV.

*Plan for Desegregation of Schools**Board Comment:*

The purpose of this section is to prevent voluntary transfers of students during the course of any school year other than those permitted for hardship or change of residence. The Board foresees that an unrestricted right with reference to time to transfer could create a chaotic condition in the administration of our schools. Additionally, this provision in effect sends the student back to his attendance area for re-assignment to secondary schools at the appropriate level. However, restricted transfer is still available to the student.

## VII.

## FACULTY DESEGREGATION

The faculties of all schools will be assigned so that the ratio of black teachers to white teachers in each school will be approximately the same as the ratio of black teachers to white teachers in the entire school system.

*Board Comment:*

This provision is in conformity with the order of the Court dated December 1, 1969.

## CONCLUDING COMMENTS OF BOARD

With all due respect to the previously expressed views of the Court (pursuant to whose order this plan is submitted) the Board still adheres to its conviction that the Constitutional requirements of desegregation in the school system will be achieved by the restructuring of attendance lines and further faculty desegregation. In reiterating this conviction, the Board acknowledges that it does so with-

*Plan for Desegregation of Schools*

out clear guidance from appellate courts concerning a clear definition of a "unitary" or "desegregated" school system. In its search for guidance from the Supreme Court regarding the true meaning of these and similar terms, the Board is not alone. However, recent appellate and district court decisions acknowledging this lack of guidance have arrived at conclusions that square with the Board's position. The most recent appellate decision comes from the Sixth Circuit Court of Appeals, *Northcross v. Board of Education of Memphis*, CA 6, — Fed. 2nd (January 12, 1970), wherein the court stated:

" . . . Upon the oral argument of this appeal, we asked counsel for plaintiffs to advise what he considered would be the 'unitary system' that should be forthwith accomplished in Memphis. He replied that such a system would require that in every public school in Memphis there would have to be 55% Negroes and 45% whites. Departures of 5% to 10% from such rule would be tolerated. The United States Supreme Court has not announced that such a formula is the only way to accomplish a 'unitary system.' We have expressed our own view that such a formula for racial composition of all of today's public schools is not required to meet the requirement of a unitary system. *Deal v. Cincinnati Board of Education* (Ohio schools) 369 F(2) 55 (6th Cir. 1966), *cert denied*, 389 U.S. 847 (1967); *Mapp v. Board of Education* (Tennessee schools) 373 F(2) 75, 78 (6th Cir. 1967); *Goss v. Knoxville Board of Education* (Tenn. schools) 406 F(2) 1183 (6th Cir. 1969); *Deal v. Cincinnati Board of Education* (Ohio schools) — F(2) (6th Cir. 1969)."



*Plan for Desegregation of Schools*

Three district judges, Judges Smith, Edenfield and Henderson of the Northern District of Georgia in *United States of America v. State of Georgia, et al.*, USDC, ND, Ga. (Dec. 17, 1969), stated there was uncertainty with respect to specific standards which should be uniformly applied in desegregation cases and went on to state further:

" . . . In this respect, the higher courts have not yet issued definitive rules as to just what steps are legally required of each local school district."

In that opinion, ratios were specified which permitted retention of some schools entirely populated by the minority race.

In *Bivins v. Bibb County*, USDC, M.D. Ga. (Jan. 21, 1970), the Court indicated its impatience with the vague terms typically employed in desegregation cases:

"The phrase 'student body merger' is new in school desegregation law . . . The word 'merge' is a most imprecise term. Just as some of the other customary expressions used by the courts in this field, for instance, 'desegregate', 'integrate', 'black schools', 'all-black schools', 'white schools', 'just schools', 'dual system', 'unitary system'; the word 'work' in 'a plan which promises realistically to work.' When appellate courts use language like this, they must intend to leave its interpretation and application to the trial courts in the light of the facts and circumstances of each particular case. If the Congress were legislating in this field it would necessarily have to use precise language. If it used language such as that quoted, it would have to define such terms; otherwise, its enactments would be struck down by the courts as being 'void for vagueness.'"



*Plan for Desegregation of Schools*

In *Bickett, et al., v. School of the City of Norfolk, et al.*, USDC, ED Va. (Dec. 30, 1969), Judge Hoffman indicated a similar concern over the lack of clear guidance from appellate courts; approved a plan for the Norfolk, Va. schools in which the percentage of Negroes in the school levels (attending schools housing less than 10% of one race) will be 23% in elementary schools, 43% in junior high schools and 100% in senior high schools; declined "to require massive compulsory bussing merely to achieve desegregation"; and concluded:

"Nor do we feel that the Constitution commands racial balancing in each school building predicated upon percentage of white and black children in the several levels of public education; to wit, elementary, junior high school and senior high school."

". . . Until the Supreme Court speaks on the subject, no one can tell what is correct ('racially unidentifiable' or 'desegregated')." (Information in parenthesis supplied.)

In *Bivins, supra*, the court addressed itself to the question of a merged or desegregated system in which approximately 75 per cent of the blacks were in all black schools and concluded:

"This court is of the opinion and finds and concludes that the student body in this system is sufficiently so merged, especially when we take into consideration the complete faculty merger above mentioned. . . ."

That same court found no legal mandate requiring racial balances in each school and stated:

*Plan for Desegregation of Schools*

"(A)ll three plans were drawn under the impression or apprehension that the law requires the achievement of racial balances. The Board probably came to this apprehension from the repeated use of more and more sweeping and expansive, though still imprecise, language by the courts. For instance, a recent order refers to 'full implementation of complete desegregation.' We look in vain for any authoritative statute or decree defining 'complete desegregation.'"

Further comment on the unsettled state of the law appears in *Thornie v. Houston County*, USDC, M.D. Ga. (Jan. 21, 1970), to wit:

"No one affected by this area of the law as fast as it is moving should let his hopes soar too high or his fears sink too low. Tomorrow might be a new day."

It is apparent that the courts have not reached a common understanding of what is required under the Constitution. The Board understandably is prone to exercise caution lest, in protecting the rights of some of its citizens, it tramples upon the rights of others in the absence of a clear mandate from the Supreme Court.

The Board has great faith in the citizens of this community and shares the conviction of the court in *Hilson v. Washington County*, USDC, M.D. Ga. (Jan. 28, 1970), when it stated:

"This is a nation of law abiding people. When we know what the law is and that it is the law, faithful compliance can be fully expected from everyone."

*Plan for Desegregation of Schools*

Respectfully submitted this second day of February,  
1970.

WILLIAM J. WAGGONER  
WEINSTEIN, WAGGONER, STURGES,  
ODOM & BIGGER  
1100 Barringer Office Tower  
Charlotte, North Carolina

BENJ. S. HORACK  
ERVIN, HORACK & McCARTHA  
400 Law Building  
Charlotte, North Carolina

BROCK BARKLEY  
Law Building  
Charlotte, North Carolina

*Attorneys for Defendant, Charlotte-  
Mecklenburg Board of Education*

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, WILLIAM C. SELF, do hereby certify that I am Superintendent of Charlotte-Mecklenburg public schools and that the foregoing is a true and complete copy of the plan of desegregation with official Board comments duly adopted at a meeting of the Charlotte-Mecklenburg Board of Education on the 31st day of January, 1970.

This the 31st day of January, 1970.

---

William C. Self

Sworn to and subscribed before me  
this 31st day of January, 1970.

---

Notary Public

My commission expires: \_\_\_\_\_

Research Report  
January 31, 1970

The Charlotte-Mecklenburg Schools

DESEGREGATION PLAN for 1970-71

Elementary Schools

School	1970-71		1969-70 *				B	Board Plan		Additional Pupils to Transport (by State regulations)
	Base	Capacity +12%	B	W	T	%B		W	T	
Albemarle Rd.	432	484	4	510	514	1%	4	469	473	1%
Allenbrook	540	605	61	452	513	12%	59	496	555	11%
Ashley Park	621	696	27	574	601	4%	155	421	576	27%
Bain	702	786	33	735	768	4%	25	706	731	3%
Barringer	486	544	843	16	859	98%	203	320	523	39%
Berryhill	836	936	98	639	737	13%	247	574	821	30%
Beverly Woods	540	605	68	684	752	9%	8	648	656	1%
Billingville	594	665	596	0	596	100%	113	325	438	28%
Briarwood	540	605	6	680	686	1%	2	663	665	0%
Bruns Ave.	675	756	759	10	769	99%	624	73	697	90%
Chantilly	432	484	0	472	472	0%	142	303	445	32%
Clear Creek	324	363	48	229	277	17%	43	266	309	14%
Collinswood	621	696	111	443	554	20%	224	448	672	33%
Cornelius	459	514	181	235	416	44%	182	265	447	41%
Cotswold	540	605	23	537	560	4%	128	449	577	24%
Davidson	324	363	104	186	290	36%	102	174	276	32%
Marie Davis	756	847	662	0	662	100%	666	82	748	88%
Perita	783	877	150	678	828	18%	152	595	747	20%
Devonshire	648	726	0	903	903	0%	0	925	925	0%
Dilworth	648	726	90	317	407	22%	241	376	617	39%
Double Oaks	675	756	836	0	836	100%	825	3	828	100%
Druid Hills	486	544	472	3	475	99%	465	20	485	96%
Eastover	405	454	42	559	601	7%	157	478	635	25%
Elizabeth	405	454	314	125	439	72%	112	294	406	28%
Enderly Park	513	575	3	371	374	1%	119	238	357	31%

\* Not including Special Education in self-contained classes

## DESEGREGATION PLAN for 1970-71

## Elementary Schools

School	1970-71		1969-70				Board Plan		Additional Pupils to Transport (By State regulations)
	Base	Capacity +12%	B	W	T	%B	M	T	
First Ward	702	786	805	0	805	100%	770	777	99%
Hickory Grove	459	514	70	533	603	12%	556	630	12%
Hidden Valley	648	726	0	1100	1100	0%	1077	1078	0%
Highland	297	333	69	305	374	18%	237	313	24%
Hoskins	297	333	13	212	225	6%	219	343	36%
Huntersville	675	756	145	531	676	21%	554	684	19%
Huntingtowne Farms	594	665	7	603	610	1%	3	617	0%
Idlewild	567	635	47	581	628	7%	59	608	10%
Irvin Ave.	378	423	292	0	292	100%	*		
Jay James	378	423	462	3	465	99%	90	259	35%
Lakeview	378	423	346	89	435	80%	119	404	29%
Lansdowne	756	847	75	802	877	9%	79	798	10%
Lincoln Heights	648	726	711	0	711	100%	903	909	99%
Long Creek	702	786	267	468	735	36%	259	782	33%
Matthews	945	1058	86	802	888	10%	81	918	9%
McCarry Oaks	486	544	0	442	442	0%	0	557	0%
Richmond	459	514	9	437	446	2%	116	517	23%
Roseclaire	675	756	0	718	718	0%	781	782	0%
Rivers Park	432	484	22	444	466	5%	150	464	32%
Nations Ford	621	696	43	669	712	6%	177	725	24%
Rowell	594	665	74	438	512	14%	64	500	13%
Gardale	540	605	69	517	586	12%	202	662	31%
Oakhurst	594	665	5	616	621	1%	92	596	15%
Oaklawn	594	665	584	0	584	100%	597	600	99%
Olde Providence	540	605	80	512	592	14%	83	544	15%

\*distributed to surrounding schools

## The Charlotte-Mecklenburg Schools

## DESEGREGATION PLAN for 1970-71

## Elementary Schools

School	1970-71		1969-70				Board Plan				Additions Pupils to Transport (by State regulations)
	Base	+12%	B	W	T	%B	%W	T	%B		
Park Road	540	605	44	548	592	7%	4%	571	612	7%	
Paw Creek	594	665	27	609	636	4%	10%	602	685	12%	
Paw Creek Annex	270	302	30	271	301	10%	28%	379	502	25%	
Pineville	486	544	136	356	492	28%	0%	900	900	0%	
Pinewood	648	726	0	674	674	0%		0			
Plaza Road	459	514	80	340	420	19%		350	531	34%	
Rama Road	648	726	1	815	816	0%		744	747	0%	
Sedgefield	540	605	3	548	551	1%		223	354	38%	
Selwyn	486	544	31	617	648	5%		459	491	7%	
Shamrock Gardens	486	544	0	515	515	0%		84	496	15%	
Sharon	459	514	72	361	433	17%		91	421	18%	
Starmount	648	726	25	712	737	3%		67	833	7%	
Statesville Road	648	726	333	522	855	39%		160	553	23%	
Steele Creek	378	423	5	509	514	1%		195	475	29%	
Thomasboro	729	816	0	690	690	0%		135	777	15%	
Tryon Hills	486	544	309	164	473	65%		200	342	37%	
Tuckaseegee	540	605	58	578	636	9%		57	510	10%	
University Park	648	726	825	1	826	100%		735	132	85%	
Villa Heights	810	907	902	83	985	92%		877	170	83%	
Westerly Hills	405	454	46	539	585	8%		144	332	30%	
Wilmore	378	423	222	210	432	51%		153	250	40%	
Windsor Park	648	726	1	748	749	0%		1	782	783	
Winterfield	618	726	48	688	736	7%		52	653	7%	
Total	40,331	45,239	13,010	31,278	44,288			12,815	31,473		

Research Report  
January 31, 1970

The Charlotte-Mecklenburg Schools  
DESSEGREGATION PLAN for 1970-71

Junior High Schools

School	1970-71		1969-70				Board Plan			Additions Pupils to Transport (By State Regulations)
	Base	Capacity +20%	B	W	T	%B	B	W	T	%B
Albemarle Road	948	1138	63	995	1058	5%	19	753	772	2%
Alexander	874	1049	328	761	1089	30%	303	698	1001	30%
Cochrane	1190	1428	72	1544	1616	5%	571	1150	1721	33%
Coulwood	704	845	101	770	871	12%	313	551	864	36%
Eastway	1093	1312	61	1356	1417	4%	375	971	1346	28%
Alexander Graham	996	1194	101	1028	1129	8%	261	888	1149	23%
Lawthorne	850	910	550	472	1022	54%	276	704	980	28%
Kennedy	801	961	302	9	811	99%	325	510	835	39%
McClintock	923	1100	84	1288	1372	6%	25	1048	1073	2%
Northwest	1068	1282	1032	1	1033		296	675	971	30%
Piedmont	631	757	408	55	463	89%	758	84	842	90%
Quail Hollow	1238	1486	129	1421	1550	9%	138	1144	1282	11%
Randolph	972	1170	279	710	989	28%	307	683	990	31%
Ranson	851	1021	246	548	794	31%	295	558	853	35%
Sedgefield	777	930	167	809	976	17%	234	612	846	28%
Smith	1093	1312	51	1436	1487	4%	330	957	1287	26%
Spaugh	826	1091	262	839	1101	24%	346	752	1098	32%
Williams	801	967	1081	0	1081	100%	336	722	1058	32%
Wilson	1044	1253	60	1145	1205	5%	346	795	1141	30%
Carmel	558	670					2	555	557	0%
J. H. Gunn (Wilgrove)	558	670					49	470	519	9%
Total	18,796	22,546	5,877	15,187	21,064		5,905	15,280	21,185	1,377



The Charlotte-Mecklenburg Schools  
DESEGREGATION PLAN for 1970-71  
Senior High Schools

School	1970-71		1969-70				Board Plan		Additions Pupils to Transport (by State regulations)
	Base	Capacity +20%	B	W	T	%B	B	W	%B
East Mecklenburg	1700	2040	215	1925	2140	10%	360	1716	17%
Garinger	1874	2249	492	2168	2640	18%	721	1914	27%
Harding	1202	1442	612	720	1332	45%	395	692	36%
Independence	1047	1256	101	1111	1212	9%	23	1241	2%
Myers Park	1679	2015	224	1767	1991	12%	426	1883	18%
North Mecklenburg	1158	1390	446	1185	1631	28%	440	998	31%
Olympic	807	968	351	512	863	41%	201	687	23%
South Mecklenburg	1523	1828	90	2024	2114	5%	482	1846	21%
West Charlotte	1593	1912	1641	0	1641	100%	597	1045	36%
West Mecklenburg	1374	1649	141	1444	1585	9%	494	998	33%
Total	13,957	16,749	4,313	12,836	17,149		4,139	13,020	1,202

**Transcript of February 2 and 5, 1970 Proceedings**  
**(Excerpts)**

**[43] . . .**

WILLIAM C. SELF, a witness for the defendant, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Waggoner:*

Q. State your name and official position, please, sir. A. William C. Self, Superintendent, Charlotte-Mecklenburg Schools.

Q. Dr. Self, with reference to the plan for desegregation submitted on behalf of the Charlotte-Mecklenburg Board of Education, would you briefly review the circumstances leading to the adoption of this plan? A. The Board of Education was ordered to come up with a plan for desegregation. They employed the services of Systems Analysis, Inc., instructed this firm to use the technique of restructuring attendance lines with the express purpose of achieving a racial balance in schools.

Q. Did Systems Associates, Inc., submit to you a report of their efforts? A. Yes, they did.

Q. Is that attached to and forms a part of the plan for desegregation that was submitted to the Court? **[44]** A. I believe it was.

Q. I direct your attention to the document attached to the plan for desegregation entitled A plan for Student Desegregation by Systems Associates, Inc., and ask you, if you will, to briefly review the contents of this document for the benefit of the Court.

Mr. Chambers: I object. I think that document would speak for itself.

*William C. Self—for Defendant—Direct*

Court: Well, if the answer is brief enough, I'll overrule the objection. I assume he's asking for a brief summary of what it does or says.

A. The document contains several sections. The first one is entitled Scope and in that section the author of the document sets forth the objectives of the study, the three functions of the computer program, the computational rules that were employed, the criteria for selecting the various grade combinations. Section 2 consists of a set of recommendations. The great majority of those has to do with how we might improve our present system of pupils census operation. The third section consists of a section entitled Statistics, and in this section the statistics have to do with what the study was able to accomplish in the way of desegregating the various schools. They are shown by elementary schools, junior high schools and senior high schools. The Fourth section is the largest part of the document. In this section are attached [45] the maps of all of the attendance areas of the schools. The fifth section and the last is simply an account by the firm as to the chronology of events that took place.

Q. Dr. Self, with reference to the scope of the computer assisted approach to restructuring grid lines, would you briefly describe what was involved in this approach? A. Well, using pupil census data and computer programming techniques, the firm attempted to achieve a racial balance under the guiding principles that they would try to get as nearly as possible a 70-30 white to black ratio in every school, that they would attempt to preserve the compact or contiguous neighborhood school attendance area and would attempt to find a student body that would neither overcrowd nor underpopulate the school building.

*William C. Self—for Defendant—Direct*

Q. Could you briefly describe the method of computation that was used? A. The rules which governed the computation are listed on Page 3 of the document. The first one states that a combination of grids which is considered acceptable must contain only grids contiguous to one another on at least one full side, contain only grids contiguous to one another and at least must be contiguous on one full side to the grids in which the school is located and not contain the home grid of another school of a type similar to the one for which the computations are being made. The second rule had to do with the [46] capacity. Any combination containing a number of students whose total was less than 80% or more than 100% of the school's rated capacity is not considered acceptable in the initial computation.

Court: Mr. Waggoner, I don't want to interrupt you if this is pertinent, but all this is on the record in the previous evidence in this case filed last October and November and December.

Mr. Waggoner: If the Court please, this plan does differ in some slight . . .

Court: Don't you remember that you put it in the record?

Mr. Waggoner: Yes, sir, I remember I put it in the record for our other plans, but this present plan does differ and the results do differ somewhat from what was previously submitted.

Mr. Chambers: I have further objection that this document that Dr. Self is discussing is already in evidence and we can read that. Our objection is to the whole proceeding. It's just a further delaying tactic on the part of the School Board.

Mr. Waggoner: If the Court please, this is not a delaying tactic.

*William C. Self—for Defendant—Direct*

Court: I'll overrule the objection so proceed, but try not to duplicate stuff already introduced. This has been [47] before the Court four months.

Mr. Waggoner: All right.

Q. Continue, Dr. Self. A. I think I had completed the answer to your question.

Mr. Waggoner: I'd like for these to be marked as Defendant's Exhibit #3.

Court: If you have any other exhibits, get them marked now so we can proceed with them, or are they already marked?

Mr. Waggoner: One moment, Your Honor.

Court: The rolled up maps are just like the folded maps?

Mr. Waggoner: The rolled up will spread out smoothly.

Q. Dr. Self, I hand to you Defendant's Exhibit #3 and ask you if you can identify it. A. This is the computer printout on Midwood Elementary School.

Q. What do the various columns represent on this print-out? A. The first two columns represent the racial breakdown in the school. The next column is a column entitled Cell Difference which is really a term that has to do with the compactness of the grid. The next columns have to do with the number of pupils, total black and white. The next column has to do with the capacity and the last columns are headed Cells Used and in these columns are listed the various grid combinations that can be used to make up the attendance area of the school.

[48] Q. All right, sir. I direct your attention to the last

*William C. Self—for Defendant—Direct*

page of that document and ask if you can tell the Court the number of combinations that were printed out for that particular school. A. The words at the bottom of the printout are "Number of records read 320, number of records printed 320."

Q. I next hand you another exhibit entitled Defendant's Exhibit #4 and ask you if this relates to another school.

A. This relates to the Bruns Avenue Elementary School.

Q. I direct your attention to the last page as to the number of records read and records printed. A. The number of records read 1065, number of records printed 1065.

Q. Dr. Self, does that represent the total number of combinations the computer tried for the various schools to reach a grid configuration? A. Yes, it does.

Mr. Stein: Your Honor, could we have a description of these exhibits so we could have a list to know what he's talking about. Perhaps he could call off the exhibits he has marked and give us descriptions.

Court: Well, have you got copies of what he's talking about?

Mr. Waggoner: No, sir, these are the only copies. They are on rolls, tremendous sheets.

[49] Court: This hearing was called at the request of the defendant on short notice and it wasn't scheduled until last night after we found out everybody could be here and we may get along faster if you all come up here and look over his shoulder, which is a bit unusual. Dr. Self, if you'd like to get down here to the Clerk's desk so that everything you're displaying can be seen by all counsel, just stand there or sit, as the case may be. It may help everybody.

*William C. Self—for Defendant—Direct*

Mr. Waggoner: If the Court please, I don't plan to go into specifics. I'm just submitting these as examples of the nature of the work of the computer.

Court: Let me ask a question. Did the computer decide what line to draw for Midwood School or did people have to do that after looking at the printouts?

A. No, sir. A human factor entered the picture at this point. From all of the various grid combinations that were listed one was chosen and that combination was drawn on the map which is part of the court record.

Court: So the maps you've got are people plans instead of computer plans.

A. Well, the person actually made a choice from among the grid combinations but it wasn't a random choice. There were some criteria which were used in that selection and the criteria are listed on Page 5 of the report. There is also an example [50] given of how that selection was made which uses the Lakeview Elementary School and that begins on Page 7 and lasts through Page 10.

Mr. Chambers: Your Honor, we'd just like to know right now what is Exhibit 1 and 2, the plan the Board filed?

Court: Exhibit 1 is the minority opinion or statement made by Mrs. Mauldin and Rev. Kerry. I'm not sure that these are identical, but anyhow, #1 is Mr. Kerry's dissenting opinion. #2 is the combination plan and brief of the School Board that was filed the other day. Do you have copies of those?

Mr. Chambers: We have copies of those. I guess #3 is one of these documents.

*William C. Self—for Defendant—Direct*

Mr. Waggoner: Yes.

Court: Midwood computer data.

Mr. Waggoner: Those two as samples of the nature of the work performed by the computer and our next develops how it was used.

Court: Mr. Waggoner, if this is for my information, this has been exhaustively developed already in your previous testimony and I see no reason to go ahead with it.

Mr. Waggoner: This information has not been before [51] the Court prior to this time.

Court: I am aware that there are various pieces of information that may not be but if your purpose is to show the function of the computer, I think it's already been shown. It produces possible plans and then the people who draw the plan take the computer information and use it as a starting point to draw a plan. Now and then I suppose it would produce something you could just print and use. Does this help in any decision I have to make?

Mr. Waggoner: It would show an Appellate Court the great extremes we went to in trying to seek all the alternatives to redistrict the zones in this system.

Court: How much longer are you going to spend on this computer?

Mr. Waggoner: Not very long, Your Honor. We propose moving to the maps quickly.

Court: All right. If you promise not to take long, I will instruct Mr. Chambers not to object but give him an objection to all the rest of the testimony.

Q. Dr. Self, will you describe to the Court the manner in which the [52] printouts of the computer information as



*William C. Self—for Defendant—Direct*

appears on Exhibits 3 and 4 was utilized in preparing the maps that we will introduce later? A. From the various alternative grid selections one was selected in accordance with the criteria on Page 5 of the firm's report and the one that was selected was drawn on the map. At that point you go to the next school, print it out, make your selection of it, put it on the map. You determine whether or not there is a conflict between the attendance line of the second school and the attendance line of the first school. If there is, you attempt to resolve it and move on to another school. In that way you build the attendance lines of all of your schools in the district.

Q. So you took this information and then physically and manually plotted on the map the grid zones or school zones that are on the maps, is this correct? A. The actual selection of the grid combination was done by the consulting firm. The lines were put on the map by the firm. Our staff was involved in terms of reviewing this work and offering suggestions for modification.

Q. Dr. Self, were you submitted any statistics with references to the restructured lines that were proposed by Systems Associates? A. Yes. The statistics are a part of the report.

Q. Did your school staff participate in drawing the school lines [53] which appear on the maps? A. The school lines, we looked at what the consultant had done. We offered suggestions for revision or modification. We actually involved the principals of the schools in this examination and permitted them an opportunity to offer suggestions.

Q. Could you give us several examples of suggestions that would be made with reference not to particular lines but just generally? A. One suggestion that came in rather frequently from principals was you have altered my line and you've put some children out of my school and taken in some others, yet both of these groups of children are of

*William C. Self—for Defendant—Direct*

the same race so what do you profit by altering the line. Of course, in this case it was a valid point and on the basis of that the line could be restored to its original purpose. There were some cases where principals made suggestions conforming to natural boundary-type reasoning which were rejected because to accept them would have upset the racial balance achieved under using the grid pattern.

Q. All right, sir. Did the transportation or access to the school form any factors in the development of these school lines? A. It did not, not up to this point. I would say that there is probably some additional work that needs to be done on these lines [54] and that accessibility, blocked off sections of the community, things like that would have to be considered. I do believe that the consultant says that this adaptation can probably be accomplished and not change the statistical data by more than 2%.

Mr. Chambers: May I ask for a clarification and have Dr. Self define which consultant he's talking about.

Court: He's talking about Mr. Weil.

A. The consultant employed by the Board of Education, yes, sir.

Q. Dr. Self, based on this technique of restructuring attendance lines, could you give us comparisons between the 1969-70 school populations and those for the projected 1970-71 school year? A. I think to show that comparison, Mr. Waggoner, you would use the summary of the results page which is Page #23 of the report. Without going through elementary, junior and senior high schools, if you

*William C. Self—for Defendant—Direct*

look at the total at the bottom of the page, you can see the comparison of the two years in terms of the number of students and also by the number of schools that would be involved. The figures are listed by the percent of black pupils that would be in the schools. For example, using the percent black, let's say 16 to 41, these are schools in which the student population ranges from 16 to 41%. The number of black pupils in 69-70 is 15,852. Using the re-structured attendance line technique, that number is tripled, [55] overtripled to 49,748.

Q. Dr. Self, I direct your attention to Page 25 and ask if you can indicate the percentage of students that would be in schools having a black student population ranging between 16% and 41%. A. That data would be at the bottom of the page. The percent of black students in that particular category would be 61.4.

Q. Dr. Self, are there any schools in this system which do not have white students that will be assigned to them? A. Examining pages 26, 27—I believe that there are three. I think you would find this fact by looking down the column entitled Black Students and if there were a zero in that column this would indicate that was a school which fell in the category you were trying to identify.

Q. This is all white you're talking about? A. That's right, sir. The three schools are Devonshire, Merry Oaks and Pinewood, I believe.

Q. Are there any black schools at which there are no white students? A. To answer that question you would move over to the column entitled white students and see if you found any zeros, and there are none.

Q. So there are no all black schools in the full sense of the term, is this correct? [56] A. According to these statistics and that assignment pattern, yes, sir.

*William C. Self—for Defendant—Direct*

Court: Have you got a copy of the report of the School Board describing the population of various schools under the proposed Board plan?

Mr. Waggoner: Yes, sir, we do.

Court: I thought I had one here but I don't seem to find it.

Mr. Stein: Your Honor, could we make an inquiry at this point? Mr. Waggoner began his questioning by going through the history of the process of the development of the plan and we'd like to know whether what he's talking about now are statistics relating to the plan submitted to the Court or whether they are statistics relating to proposals by Weil at some intermediate stage.

Court: What are you reading from, Dr. Self?

A. From the report.

Court: You're reading from Mr. Weil's information.

A. That's true.

Court: Let's get away from that and get to what you submitted to the Court.

A. If I might offer . . .

Court: Is that identical with the information sheet that was filed as a part of the proposed plan of the [57] Board?

A. There is one exception, if I'm not mistaken. The Weil plan presumes to continue the Erwin Avenue Elementary

*William C. Self—for Defendant—Direct*

School. Under the plan which the Board of Education submitted this school was closed. If there is variance in terms of the data submitted under the Weil plan and that supportive data sheet which is part of the Board's report, it's because Mr. Weil was working with pupil census data from October 1 and this has been updated to January 21 in the Board's report.

Mr. Chambers: Sir, I'd like to make one further inquiry. I understand Dr. Self is talking about three all white schools and getting his percentages from Pages 26 and 27.

A. I was not using percentages, Mr. Chambers, I was using numbers of pupils.

Mr. Chambers: May I make one further inquiry? Which column were you reading from, the last columns on Pages 26 and 27?

A. No, sir, the last line is percent. My information came from the third column which is entitled black students.

Mr. Stein: Your Honor, at this point we would suggest at this point if we go through statistics relating to October and then statistics relating to January, the Board could keep us here for two or three weeks and we think we have passed the stage where we have that [58] kind of time.

Court: Well, I've given an indication at the outset as to the amount of time that I can devote to this, so, Mr. Waggoner, you be guided as to how you spend the time.

*William C. Self—for Defendant—Direct*

Mr. Waggoner: If the Court please, the purpose we have is to develop our evidence as fully as we can and we will try to do it in the shortest time possible. We feel we must present our case in our own manner and this is what we propose doing and I am moving as quickly as I can. Now, with reference to the question Mr. Chambers asked, there is no substantial difference between the Weil statistics, the summaries, and those that the Board has submitted. Is this correct, Dr. Self?

A. That's correct.

Court: Well, I have studied the information submitted by the Board and have not studied the Weil information to know in what way it varies. I had not intended to go back and study the Weil figures in detail.

Mr. Waggoner: If the Court please, I am merely pointing out some broad categories. I haven't gotten into specifics except in the predominant figure of 16 to 41%.

**[59]** Court: Let me ask a question. Are there any schools with a black population of between 41 and 84%? Are there black schools either under 41 or over 83%?

Mr. Waggoner: Yes, sir, 84% is the minimum percentage in the all black schools.

Court: So you've got schools which run up to 41% black and a majority of white and then you have no schools with a black population anywhere between 41 and 84.

Mr. Waggoner: That's correct.

*William C. Self—for Defendant—Direct*

Court: So any reference to a collection of schools from 42 to 100% really means 84 to 100%, doesn't it?

Mr. Waggoner: That is correct and it is so clearly set out in the Weil report.

Q. Dr. Self, will you name the all black schools that will remain in that range of 84% and 100%? A. The elementary schools are Bruns, Marie Davis, Double Oaks, Druid Hills, First Ward, Lincoln Heights, Oaklawn, University Park, Villa Heights.

Q. Erwin Avenue has been closed, is this correct? A. That's correct.

Q. I understand there are certain schools that were predominantly black or are now predominantly black that will not be predominantly black under the projected figures. I direct your attention to Page 29. [60] Would you name those schools? A. The schools that were predominantly black in 69-70 or at this particular time and would not be predominantly black next year under the Board's plan are Barringer, Billingsville, Elizabeth, Amay James, Lakeview, Tryon Hills.

Q. Each of the schools you just named will have less than 41% black, is that correct? A. That's correct.

Q. Now, with reference to the elementary schools with 99 to 100% white population, which ones have been removed from that category under your projected figure? A. Those schools are Chantilly, Enderly Park, Oakhurst, Sedgfield, Shamrock Gardens, Steel Creek and Thomasboro.

Q. Dr. Self, I direct your attention to Page 31 and ask you to tell me those junior high schools which it is projected will have less than 15% black student population. A. One of those would be Albemarle Road with 2% black;



*William C. Self—for Defendant—Direct*

McClintock with 2% ; Carmel Road with 0% and J. H. Gunn with 9%.

Q. I direct your attention to Quail Hollow. A. I beg your pardon, Quail Hollow would have 11%.

Q. Dr. Self, with reference to the high schools would you tell us the percentage of black students that it's projected would be attending those schools? A. West would be 33% ; Olympic 23; Harding 36; West Charlotte 36; [61] South Mecklenburg 21; Myers Park 18; Garringer 27; East 17; Independence 2; North Mecklenburg 31.

Mr. Waggoner: If the Court please, can we take a short recess to get the maps on the board?

Court: They won't go on the board. Why don't you lay them on the floor. That's what I do with them so I can see them. Let's take a recess until 11:00 o'clock so these maps can be straightened out. Be ready to go again at 11:00.

SHORT RECESS

Q. Dr. Self, will you come down to the maps which are on the board which represent the Board maps that were submitted in connection with this plan for desegregation and I ask you to identify the first map that you see there. A. The first map is a map of the attendance areas of the elementary schools.

Q. Dr. Self, with reference to the lines that appear on that map, can you describe those lines for us? A. There are two sets of lines. First there is a dotted blue line which represents the attendance area as it exists at the present time. There are solid lines superimposed over those which represent the line as drawn by Systems Associates study.

Q. All right, sir. I direct your attention to the outlying or so-called county elementary schools and ask you if there



*William C. Self—for Defendant—Direct*

has been any substantial differences in the configuration of those [62] attendance lines. A. No substantial change in those.

Q. Where has the substantial change taken place? A. For the most part I think in the schools under this particular belt which would be the northwest to west to southwest section. There are some rather drastic changes through here. In other words, I guess you would call it the suburban area of the city.

Q. In what would be normally regarded as the city limits but the outer perimeter of that, is that correct? A. That's right.

Q. Dr. Self, applying the technique used in drawing those lines could you illustrate how one district may have been formed? A. Well, I think perhaps the best way to do that would be to trace the dotted line to show how it exists now and then to point out the grid line as it would be recommended. This is Nations Ford. The old attendance line comes down Highway 49, follows the branch here, comes out through the countryside, heads north again, again to open countryside for the most part, picks up with . . . I was wrong on this, that's South Blvd. This is Highway 49 and York Road . . . and uses the new north-south expressway at this point and goes cross country to join the line again. The new Nations Ford Road you can see is straight lines like this, following the general configuration of the old line in this section but departing from [63] it rather radically here to reach up into and take a part of what was the Amay James attendance area so as to bring the black student population up in Nations Ford.

Q. That is a rather long elementary district, is it not? A. Yes, it is.

Q. All right, sir. I direct your attention to the Marie Davis attendance district. A. Right here.

*William C. Self—for Defendant—Direct*

Q. Do you know what the racial population of that school will be approximately? A. Marie Davis is one of the schools we listed as predominantly black..

Q. What efforts were made to desegregate that school? A. Well, the same stipulation governed the attempt to change the Marie Davis line as did here. The difficulty is that as you move out from Marie Davis you get into a heavy student population and you have very soon rounded up enough pupils to fill your building to capacity. The net effect of the move is to leave the school as predominantly black.

Q. Do the surrounding schools to the attendance lines of Marie Davis have a substantial degree of desegregation?

A. Yes. The neighboring school to Marie Davis is Barringer. That is one of the schools that I indicated would be changed from an all or predominantly black school to an approximately 70-30 ratio this next year.

[64] Q. With reference to the Barringer School where does its new attendance line extend generally? A. Well, it actually moves up into what is presently the Ashley Park area, crosses Wilkinson Blvd. to pick up a complement of white children. It excludes a section of black children in this particular section. The effect is to move black youngsters out and incorporate a group of white youngsters to get the racial balance in Barringer.

Q. Does it remove some of the students who live in the Barringer Woods subdivision or Rollingwood section? A. I'm sorry, I'm not that familiar with the section.

Q. Now, as I understand, this map does leave a substantial or some black schools in it in the so-called inner-city which lies generally northwest of Tryon Street, is that correct? A. That's correct.

Q. What efforts were made to desegregate those schools?

*William C. Self—for Defendant—Direct*

A. We looked at other possibilities. We thought in terms at one time of pairing or clustering arrangement with Marie Davis but to have done that would have upset the surrounding schools. The schools that are up in this particular section could not be desegregated through restructuring attendance lines.

Q. I direct your attention to Billingsville. What efforts were made to desegregate that school? A. Billingsville is desegregated by using restructured attendance [65] lines.

Q. I next direct your attention to the next map which I understand is the junior high attendance map. As I understand this map, many of the outlying junior high schools were not affected substantially by the desegregation on this map, is that correct? A. Well, I think the same condition prevailed with the junior high schools in the outer region of the county. For example, very little was done in terms of the Alexander Junior High School attendance lines. It is already desegregated.

Q. All right, sir. With reference to Northwest Junior High, what efforts were made to desegregate this school? A. We draw the attendance line and through that technique and through projecting the attendance lines out in a westerly direction, Northwest can be desegregated.

Q. I ask you about Williams Junior High. A. The same technique was employed except this time the direction was in the easterly direction.

Q. With reference to Cochran. A. The Cochran area was actually reduced a bit and the area extended in to pick up black students to get the black student complement for Cochran.

Q. I next direct your attention to the map called the senior high map under the Board of Education plan and

*William C. Self—for Defendant—Direct*

again ask you about the outlying or so-called county schools. [6]6 A. Well, the attendance lines at the senior high school level were affected by our attempts to desegregate West Charlotte.

Q. Could you say this is the beginning point in trying to formulate a desegregation of the senior high school system? A. I think that would be a true statement.

Q. Would you describe the former West Charlotte attendance area? A. The former West Charlotte attendance area is very compact, one located around the school itself. The northern boundary is Interstate 85, the southern or southwestern boundary is West Trade, for the most part the boundary on the east is Graham Street.

Q. What did the resulting attendance lines, what area did it encompass that it didn't formerly encompass? A. The major change, of course, was to extend the West Charlotte area westerly for this block of students and into an easterly direction for this block of students.

Q. That line extends to the Cabarrus County line, does it not? A. It does.

Q. I direct your attention to Harding. What efforts were made to reduce the black population for that school? A. Efforts were made to extend the surrounding school districts by Harding School in such a way as to pick up black students and bring the black ratio up in the surrounding schools and reduce it at Harding.

Q. I direct your attention to South Mecklenburg. Would you [67] describe the former attendance area there? A. The former attendance area produces some desegregation in South Mecklenburg by penetrating up into a section of the inner city. The revised attendance area does the same thing except branches out in to pick up more black students.

Q. I next direct your attention to East Mecklenburg.

*William C. Self—for Defendant—Direct*

Describe the present attendance line. A. The East Mecklenburg attendance lines, of course, start at the county. There is a section which is pie-shaped which accommodates East Mecklenburg at the present time, one of the boundaries being Central Avenue, Lawyers Road and out U. S. 74, and the other boundary being Randolph and Providence and going to the county line.

Q. What efforts were made to desegregate that school?

A. The same technique as we used on South Mecklenburg, extend the area up into the city to bring in more black students.

Q. You may return to the stand. (The witness does so.) Dr. Self, I understand the Board plan contemplates providing transportation as permitted by state law. Under these revised attendance lines would there be any additional students transported? A. The Board's provision is correct as you stated it. We do not intend to extend the transportation system beyond its present limits. However, in Board deliberations it has been acknowledged that a hardship probably would be placed on some [68] students and for these students we would need to come back and make some sort of provisions for transportation. Our handicap, of course, in this is we must secure the funds with which to act.

Q. Now, I believe in the press of time you have requested Mr. J. D. Morgan to familiarize himself with the transportation information, is this correct? A. This is correct.

Q. Dr. Self, are you familiar with the Finger plan for desegregation of the schools? A. Yes, I am.

Q. Could you use the maps we now have to briefly describe the difference between his plan and the plan that the Board has submitted? A. Yes, sir.

*William C. Self—for Defendant—Direct*

Q. With reference to the high schools, describe in what way differently he treats the assignment of students.

A. Well, looking at the high school map and at the figures which are a part of the Weil document, the thing that concerned Dr. Finger was the 2% black enrollment at Independence. He instructed our staff to try to modify the lines in such a way as to correct this factor. The way to do that is to designate a section of the inner city as a satellite district for Independence and bus those children to Independence High School.

[69] Q. Do you know generally where the area is that would be used as a satellite district? A. It is in the inner city section and I believe it's shown in color on the maps which Dr. Finger submitted.

Q. With reference to the junior high plan, how does his differ from the Board's plan? A. His concern with the junior high plans was the high percentage of black at Piedmont and the correspondingly low percentage of white in the schools that I named earlier, Albemarle Road, McClintock, Quail Hollow, Carmel Road and J. H. Gunn, and he instructed our staff to attempt to redraw the lines in such a way as to rectify this condition. Again, through the use of satellite districts we were able to do this. It enabled us to redraw an attendance area around Piedmont and also to set up some satellite districts for those predominantly white junior high schools that I named.

Q. Under this junior high plan would it be basically busing the blacks out of the Piedmont district or cross-busing? A. Cross-busing if you think in terms of a system because the elongated junior high school district for Northwest and Williams would certainly require that white pupils be bused into them. Also the same would be the case for

*William C. Self—for Defendant—Direct*

Kennedy Junior High School. The black youngsters would be bused out to the predominantly white schools.

Q. All right, sir. Now, with reference to the elementary how [70] does his plan differ basically from that of the Board? A. Again, starting with the plan and examining it, Dr. Finger notes, of course, there were some all black schools and some all or predominantly white schools remaining.

Q. Let me ask you this, did he basically utilize the Board's restructured lines in these three systems to formulate his plan? A. I think it would be fair to say that Dr. Finger had access to these maps. He also thought that, at least he seemed to think that restructuring attendance lines was a legitimate approach to achieving desegregation.

Mr. Chambers: Objection.

Court: Why don't you confine yourself to your own opinions, Dr. Self, and observations instead of seeking to testify for him. That's the basis of the objection.

A. All right, sir.

Q. Now, with reference to the elementary plan, how does his plan differ from that of the Board of Education? A. It uses pairing for the schools that are all black and those that are all or predominantly white.

Q. Now, could you come down again to the elementary map and briefly describe the white schools he would propose pairing and the black schools he would propose pairing. (The witness does so.)

[71] Court: Have you got a list of those schools?

A. Yes, sir. They are a part of Dr. Finger's plan.



*William C. Self—for Defendant—Direct*

Court: That's what I was going to hand you if you wanted it. Go ahead.

A. The black schools that we mentioned earlier as being Bruns Avenue, Marie Davis, Double Oaks, Druid Hills, First Ward, Lincoln Heights, Oaklawn, Tryon Hills, University Park and Villa Heights, and they are found in this particular section. The white schools or predominantly white are Huntingtown Farms, Sharon, Starmount, Park Road, Pinewood, Briarwood, Devonshire, Hidden Valley, Beverly Woods, Lansdowne, Old Providence, Albemarle Road, Idlewild, Merry Oaks, Allenbrook, Paw Creek, Paw Creek annex as a part of Paw Creek, Tuckaseegee, Hickory Grove, Montelaire, Rama Road, Selwyn, Windsor Park and Winterfield.

Q. All right, sir. Would you basically describe how he would effect his pairing? A. The pairing plan assumes that the white schools that were named would become schools in which grades 1 through 4 are housed. The 5th and 6th grade youngsters would be taken out of those schools. The black schools would become schools in which grades 5 and 6 are housed. The 5th and 6th grade youngsters from the white neighborhood would be bused into the 5th and 6th grade schools in the inner city and at the same time the 1st through 4th grade black youngsters would be [72] bused into the white schools I named.

Q. Generally what is the size of a pairing group that he would propose here? A. It ranges in terms of the capacity of the schools but by and large it would be pairing a black school with either two or three whites. (The witness returns to the witness stand.)

Q. Dr. Self, with reference to the pairing plan proposed



*William C. Self—for Defendant—Direct*

by Dr. Finger, how does his plan propose getting the students to the schools? A. I believe that Dr. Finger recommends that children beyond a mile and a half distance from the school be transported.

Q. Do you know how many total students this would involve? A. You can come to a very rough approximation. Again, I think this figure could be polished, if you care to, in Mr. Morgan's testimony. The black inner city schools number approximately 7000 youngsters. If you assume you want a 70% white ratio in there, you must also assume that you're going to move 70% of the youngsters who are there. That would be approximately 5000 youngsters. If there are 5000 youngsters who are moved out of these schools, then 5000 white are moved in to replace them. This gives you a rough approximation of 10,000 youngsters involved in the paired schools.

Q. Is there additional busing that his plan contemplates? A. In the satellite districts of the junior and senior high schools, yes.

**[73]** Q. Dr. Self, do you as an educator have any preference with reference to Dr. Finger's plan or to the plan submitted to the Board?

Mr. Chambers: Objection.

Court: Well, answer the question if you can from the standpoint of the educational desirability of the two plans as to the three different levels of schools educationally and administratively, I suppose. You're asking both of those rather than personal opinion.

Mr. Waggoner: Yes, sir.

Court: Go ahead.

A. As far as the secondary schools are concerned—

Court: What do you mean secondary?

*William C. Self—for Defendant—Direct*

A. Junior and senior high schools. I think I could support the idea of using the elongated districts and, if necessary, the busing arrangement to achieve the racial balance in the secondary schools. I think that there is a basis for Dr. Finger's work in that area. In the elementary schools your question forces me to make a value judgment against the relative worth of the neighborhood school as against the benefits of the desegregated classroom. I think I have testified in this hearing before that I do think that there are values of a desegregated classroom. You're in a quandry as to whether or not the steps that would be necessary to achieve Dr. Finger's plan would be so traumatic that what you were [74] hoping would happen in a desegregated classroom would be beyond the realm of possibility. In other words, if people would be so upset this would never occur.

Court: You're talking now about whether people like it or not, aren't you?

A. I'm talking about whether the system can adapt to that drastic a change, whether teachers can be—

Court: Let's confine ourselves not to whether we like what the law requires but to the educational questions involved.

Mr. Waggoner: Can we get his testimony in the record?

Court: I don't think it's pertinent and I told you Monday that we're not holding a popularity hearing on this question, and I'm not going to do it today.

Mr. Waggoner: If the Court please, what he is stating is that the opinion of children and parents can so affect the educational system that the bene-

*Colloquy*

fits to be derived from desegregation can be submerged because of lack of popular support or acceptance.

Court: The Court is not going to entertain evidence on whether these things are popular or not. There is ample evidence of the unpopularity of the constitution in Mecklenburg County and I don't need expert opinion on that subject.

Mr. Waggoner: We would like to tender his answer.

[75] Court: I think his answer is adequately on the record.

Mr. Waggoner: May we tender his answer?

Court: Oh, yes, you may supply it later.

Mr. Waggoner: May he finish his answer that he was on, Your Honor?

Court: No, sir. I overruled the objection. You may supply the answer later for the record.

Mr. Waggoner: At the conclusion of his testimony?

Court: Any time you like.

Mr. Waggoner: May we do it now?

Court: I have instructed you not to call for any more evidence on the question of whether the people of Mecklenburg County like or don't like what the law requires. Now, if he wants to supply the answer to the Reporter privately, all right. I'm instructing you, Mr. Waggoner, not to proceed any further with comment on what people like or don't like about the law of the land.

Mr. Waggoner: If the Court please, we are not proceeding on what the people like or don't like about the law of the land. What we are proceeding on is in the area of education, the benefits. I think this is

*William C. Self—for Defendant—Direct*

something to be taken into account. If an educator says that the acceptance—

**[76]** Court: You may supply the answer after this witness has testified, Mr. Waggoner, but I don't want to hear any more on this subject.

Q. Dr. Self, the Court has expressed interest in the amount of time that would be required to implement a plan for desegregation this spring, have you given any thought and study to this? A. Yes, we have, Mr. Waggoner. The staff has attempted to devise what we call a planning network which would list the various events and activities that must unfold if the Charlotte-Mecklenburg schools are desegregated.

Q. Do you have a chart prepared indicating the steps that must be accomplished in the order? A. I do.

Mr. Waggoner: If the Court please, we would like for the witness to be permitted to use this rather long chart to illustrate the testimony. It's not large enough for everyone to see and perhaps if the witness could move close to the Court, he could describe what he's talking about.

Court: Go ahead. I think I can follow all right.

Mr. Chambers: May we see a copy of what we're talking about now?

Court: Do you have only one copy of this?

Mr. Waggoner: We have only one copy. v

**[77]** Mr. Chambers: We'd like to note another objection for the record. Mr. Waggoner, we submit, persists in trying to make this a popularity showing. We think that if he has pertinent evidence about the time schedule needed to desegregate that that

*Colloquy*

might be of some interest to the Court. But we submit that that, too, has been foreclosed in the decisions of the Fourth Circuit and the decisions of the Supreme Court. The courts explicitly held what the obligations of the School Board were and that doesn't include . . .

Court: Mr. Waggoner, you may go ahead and offer the exhibit if you think it's pertinent but I will be far more interested in getting a timetable sometime next week on implementation of the Court order than I am in evidence on the implementation of the Board plan or anything else as a theoretical matter at this point. Let me see the outline, do you have it? (Paper writing is handed to the Court.) You may certainly offer it and I'll accept it, but I think it will be time better spent if it's with some dates before us so the staff will know what job they're trying to do when.

Mr. Waggoner: That's the reason I wish to use the witness, Your Honor, to supply the dates.

Court: How much discretion do you think the Court has [78] on this in light of what the Chief Judge of this Circuit said about Greenville?

Mr. Waggoner: The Court has the discretion that it will not order an impossible or vain act. This dates through all the cases in the history of the law that I know, that the Court does not order a vain or useless act. They have ordered the Greenville and Darlington school districts to desegregate now. They said come up with a plan and whether or not the plan will produce actual and total mixing on the deadline is speculative at this point.

*Colloquy*

Court: Well, Mr. Waggoner, don't you understand that I'm going to allow just as much time as I believe the law will permit me to allow?

Mr. Waggoner: I feel certain that . . .

Court: And I cannot be controlled by whether it's somewhat disturbing or not. If you think the evidence will help, go ahead, but I'm already on your side from that standpoint and I think you know it. The problem is how far I can go in good conscience to extend the deadline which the Chief Judge of the Circuit has already put into effect in his hometown on three weeks notice.

Mr. Waggoner: Mr. Chambers has already indicated that he thinks March 1st is the latest this should be [79] accomplished.

Court: Let's don't conduct a hearing that that's controlling upon the Court nor that this evidence that you have here can be controlling.

Mr. Waggoner: Well, with Mr. Chambers commuting to Richmond these days on . . .

Court: Let's leave personalities out of the case.

Mr. Chambers: I object to that. Regardless of whether I go to Richmond or Washington I don't think it's pertinent to this case.

Court: Did I miss something funny? I was talking.

Mr. Waggoner: Well, the point I was making, Your Honor, Julius jokingly, Mr. Chambers jokingly asked me if I was prepared to be in Richmond tomorrow to meet with the Court of Appeals. So I feel if he is insistent upon his deadline there may be some application and it is our desire to protect our

*William C. Self—for Defendant—Direct*

record, so that we do have something on which you base your order.

Court: Let me get a little information from Dr. Self that I missed while you were asking about these plans. Dr. Self, looking at the Board's proposal with regard to senior high schools, as I understand it Dr. Finger has not presented any proposed change with regard to the Board's plan except that he proposed [80] that there be a transfer of some three or four hundred students from the central part of town out to Independence which is almost entirely white under the lines drawn by the Board.

A. This is true. This move causes a slight ripple effect in terms of adjusting other lines to capacity, but that's the major difference.

Court: Now, with regard to junior high schools, am I correct—leaving aside the problems of transportation right now, which may cut through the whole thing—with regard to the junior high schools am I correct that there again Dr. Finger's plan starts with the basic school attendance zones that the Board had prepared and that the main difference between those two plans is that the Board plan leaves Piedmont High School still substantially black, 90% or so, and that he has drawn a plan which does not leave any all black or nearly black schools?

A. That's correct.

Court: And is it correct that the Board plan could be, if it were decided there ought to be a change in

*William C. Self—for Defendant—Direct*

the Board plan, the choice would be between rezoning or transporting children back and forth, to and from Piedmont or closing Piedmont and reassigning those students to some of the outlying white junior high [81] schools.

A. That would be the alternative. The plan really revolves around Piedmont. If you say that the Board plan permits preponderance of black in Piedmont, do something about it, and if you do something about Piedmont you affect all the other schools as well. If you are considering closing Piedmont, I would have to say it's not a very good alternative because we're talking about the use and Dr. Finger projects the use of two junior high schools that are not now in existence. That's J. H. Gunn, in which the Clear Creek elementary youngsters are being housed while the new building is being built, and Carmel Road, which is under construction and will open next fall, which is another way of saying that we're tight capacitywise at the junior high school level and it would make it more difficult to close Piedmont.

Court: If the Court felt that under the decisions of the higher court in this area, if the Court felt that Piedmont could not be maintained as a nearly black school and if you assume the decision is made that that cannot be maintained, would you in that event feel that Dr. Finger's plan for the junior highs would be preferable to closing Piedmont?

A. I believe so, yes, sir.

Court: I'm not asking you to make the decision whether Piedmont can or cannot be maintained, but



*William C. Self—for Defendant—Direct*

**[82]** simply assuming it would have to be changed in its school population. That was the assumption of the question.

A. Yes, sir.

Court: Now, with reference to the elementary schools, is it correct to say that the Board's plan goes as far as you can go under the restrictions that all the school zones must be contiguous and that you not contemplate any substantial plans for transportation?

A. It is correct to say that.

Court: And is it correct to say that the Board's plan was drafted upon the premise that there was no duty to eliminate all of the black schools or at least that the plan might reasonably present that question for appellate review? I'm not trying to ask you another legal question, let me rephrase it. The plan for elementary schools is frankly drawn upon the assumption that there is no duty to eliminate all of the all black or nearly all black schools.

A. I believe the Board started out on a more positive assumption than that, Your Honor. I think they wanted to determine whether restructuring attendance lines could have a significant impact in terms of reaching better racial balance.

Court: And they found it could have a significant impact and it has had as reflected in the plan of the **[83]** Board.

*William C. Self—for Defendant—Direct*

A. That's correct.

Court: So with regard to all three levels of school population the plan proposed to the Court by the Board represents a very drastic improvement in the situation from the standpoint of progress towards racially indistinguishable schools.

A. That's correct, they do.

Court: Just how was the plan that is represented in the map and the figures of Dr. Finger, how was that plan arrived at with regard to the elementary? Did he start with substantially those attendance zones which when drawn by Mr. Weil and the Board's staff did result in the desegregation of a great many of the schools? Are those incorporated in what is referred to as the Finger plan?

A. They are, yes, sir.

Court: And the fundamental difference in those two plans starts after the Finger plan includes essentially those rezoned areas which have resulted in the desegregation of a great many schools.

A. That's right.

Court: And then the problem of what to do about the other schools has been dealt with by pairing or grouping black inner-city schools with outlying white [84] schools and providing for transportation.

A. That's correct.

*William C. Self—for Defendant—Direct*

Court: If children are assigned from a city school to a rural or a perimeter area school do they receive transportation under the present arrangement?

A. They do and the converse to that is true. If a child who resides in the county is moved to a city school, he is provided with transportation.

Court: I suppose the transportation estimates are still rather rough at this stage and there is no way to tell exactly what the net result of any one of these plans would be as far as ultimate increase in transportation costs.

A. I believe, Your Honor, that the transportation estimates are as accurate as we can possibly make them at this time.

Court: As near as you can tell it involves some 10,000 children elementary with some margin for error?

A. The 10,000 figure that I used in earlier testimony had to do with the paired elementary schools. I think there would be some additional transportation for the satellite zones in the junior high and for the senior high.

Court: Well, now, I have some recollection from previous testimony that the county pays somewhere around eighteen or \$20.00 a year per pupil and the state cost for transportation is about eighteen or \$20.00 a year [85] per pupil as a long range proposition for bus transportation.

A. I think the figure used in the earlier testimony was

*William C. Self—for Defendant—Direct*

around \$19.00. I believe the figure this year is slightly higher than that.

Court: But if you add up all the costs, wherever the money comes from, it runs somewhere between thirty-seven or -eight and \$40.00 a year per pupil for transportation.

A. I believe I'd have to let Mr. Morgan give specific data on that, sir.

Mr. Waggoner: May I continue, Your Honor?

Court: Yes. Thank you, Mr. Waggoner.

Q. Dr. Self, with reference to the required steps and the time required to perform the various functions to implement the Board plan, do you have an opinion satisfactory to yourself as to the steps needed? A. Mr. Waggoner, the planning network for the secondary schools is predicated upon the statement that you made in testimony in court on Monday, which anticipates an actual merging of student bodies three weeks prior to the close of school. The elementary plan assumes that we will attempt to move, if implementation is ordered, as quickly as possible and here we are concerned with whether or not we are dealing with an elementary school around which a new attendance line has been [86] drawn or with an elementary school which is associated with the pairing technique. If we're talking about the attendance line restructuring, then we have more or less an administrative logistic problem which must be handled and I think we can move fairly readily. But if we're talking about the paired schools, then transportation enters the picture and our efforts to determine how we could

*William C. Self—for Defendant—Direct*

respond to this transportation need has not been too encouraging.

Q. Can you give us some of the specific tasks that must be performed aside from transportation? A. I might say that the planning network was devised for use by our office. It was not intended as a part of the testimony. We were trying to prepare ourselves for the task. While it looks fairly complicated, there are two basic elements to the planning network. The rectangular shape on the planning network is simply a listing of the events which must take place. The Circle diagrams which run all over the page are the activities that must be performed by school personnel before that event can ever take place. The first event on the map is approval of the maps by the Board. That would mean approval of the maps as they are presented here with the final polishing being done, adaptation to the natural geographic lines. Of course, I don't think the Court is interested in all the administrative staff has to do to get it ready for the Board to approve.

【87】 Q. How long do you anticipate that would take?  
A. We think that could be done by February 17.

Court: What is this you say could be done by then?

A. The approval of the maps by the Board, the refinement of them and placed before the Board for approval.

Q. These refinements, you say, would not vary substantially from the ratios of these lines now established, is that correct? A. We would have to see that it did not vary substantially from the racial balance. That was the object of restructuring the line to begin with. I'm talking now about the elementary schools which would be desegregated through use of restructured attendance lines.

*William C. Self—for Defendant—Direct*

Mr. Chambers: Your Honor, I assume we don't have to continue to note our objection. We would like to note objections to this testimony.

Court: All right. The objection is overruled.

A. The next three events occur simultaneously and we set aside March 6 for this task. The three tasks are preparation of the community, assignment of pupils and assignment of teachers. The next four events occur simultaneously and we have set those down for April 1. They are transfer of pupil records, preparation of the building, students reporting to school and have the revised transportation schedules in operation.

Q. Now, as I understand the chart that you have has a lot of [88] sub-tasks that must be performed to reach these events that you speak of, is this correct? A. They do. I think that we might emphasize that regardless of the date that is set, all of these tasks will have to be performed one way or another.

Q. Are the events and sub-tasks that must be performed accurate as they appear on that chart to the best of your knowledge? A. I must emphasize that they are judgment items. We have had to look at the task that was ahead and make some judgment as to how quickly we could perform them, how quickly all of the jobs could be done.

Mr. Waggoner: If the Court please, we would like at this time to offer the elementary chart as an exhibit.

Court: Let me ask a question about the last couple of minutes of testimony. Are you talking now about the elementary system or all three systems?

*William C. Self—for Defendant—Direct*

A. In our staff work, Your Honor, we have, just to keep things straight, divided the elementary schools from the secondary schools and one group of people worked on the schedule for implementation of any order that would effect the secondary schools. Another group worked on the elementary school task and in working with the elementary schools, we divided them, sub-divided them into two categories, those elementary schools affected by simply altering the attendance lines and those elementary schools that would be involved in pairing.

**[89]** Court: These working schedules that you're talking about, do they relate to which group of schools do they relate to? All three types of schools?

A. They do, yes, sir.

Court: You're handling these problems separately with a separate administrator and staff for senior high and junior high and elementary but you're working towards the same timetable for all of them?

A. No, sir. We are following a varying time schedule. The time schedule that I went through a moment ago had to do with the elementary schools desegregated by attendance lines. It's necessary to separate them in your thinking because. . . .

Court: That's what I'm trying to do.

Q. Dr. Self, with reference to the secondary schools, is there more difficulty in making the change of school for the students than there is in the elementary level? A. Yes, there is. I think it's related to the nature of the secondary school program and courses of study.

*William C. Self—for Defendant—Direct*

Q. Could you elaborate? A. May I do so simply through reciting the events that need to unfold?

Q. Yes, if you will.

Court: Let me go back to the elementaries for a minutes, Dr. Self. Assuming you had all the necessary transportation available, is it fair to say that the [90] easiest job as an administrative matter is the job that involves the grouping or clustering schools where the pupils are not being reassigned geographically but simply being taken as a school grade from one part of town to another?

A. From an administrative point of view, yes.

Court: And the hangup there is whether or not transportation can be had.

A. Can be had and can be supported financially.

Court: Now, the matter of redrawing the attendance zones and transferring children from one school to another where no serious transportation problem is involved is more difficult administratively but still something you think can be done, can be completed in a couple of months, perhaps by April 1.

A. Yes, it can. I think that it may be completed because of the skill or knowhow that we have acquired in the use of the computer.

Court: All right. Well, I think I've got my bearings now on what you've just told us.



*William C. Self—for Defendant—Direct*

Q. If you will, with reference to secondary schools describe the events. A. The first event. . . .

Q. Is this with reference to junior high schools? A. Junior and senior. The first major event is the same one as [91] for the elementary school, the adoption of the official maps by the Board of Education. We think that we can work our way through to the point where these can be presented to and approved by the Board by February 25th. At the same time that this work is going on with the maps, we would need to develop our staffing plan, our pupil assignment process and the curriculum that was to be offered in the schools in question. Simultaneously with that we would be attempting to develop or modify our transportation system. The next big event in terms of our pupils—and I think these are the common thread that go through all of this—is the assignment of pupils for the 70-71 term and we say that this can be done by March 25th and that pupils and parents can be notified about that immediately thereafter. The next major event is the assignment of teachers which can be done by May 1st. The teacher assignment to secondary schools is dependent a great deal upon the courses which the pupils have registered for because that tells you whether you need Social Studies teachers or math teachers and the like.

Court: Is your thinking in terms of starting the 1970-71 school year immediately after the shift over as far as the junior high and senior high are concerned?

A. Yes, it is.

Court: What are you thinking about the pupils who [92] are seniors in high school?

*William C. Self—for Defendant—Direct*

A. We would propose to advance the graduation date for the seniors in high school and, in effect, make room in the senior high schools so that we could move the rising 9th graders up to become a part of the new senior high school the last three weeks of the school term. At the same time this would give us room in the junior high schools to actually promote and involve the 6th grade students as a part of the junior high. So what we would really be doing would be organizing for the next school term.

Court: All right, go ahead.

A. There are four events actually which we are envisioning as occurring on May 26th and this would include event #1, teachers report to new assignments, event #2, students report to the new school assignments, event #3, the master schedule and the student schedule will have been completed, event #4, the bus transportation system would be operative.

Q. Dr. Self, the chart you have just read from contains the events and the sub-tasks that must be performed to reach those, is that correct? A. The events only. The sub-tasks, of course, I have not read.

Q. Are they sub-tasks required to reach the events according to the best of your knowledge or information? A. Yes, sir. There are quite a few of them.

Mr. Waggoner: If the Court please, we would like to [93] introduce these as Exhibits 5 and 6 to illustrate the testimony of the witness.

Mr. Chambers: Objection.

Mr. Horack: Excuse me, they are 13 and 14.

*William C. Self—for Defendant—Direct*

Mr. Chambers: Your Honor, again we are missing some exhibits. You've got 13 and 14 now?

Mr. Horack: Yes. These were marked earlier at the Judge's request.

Mr. Waggoner: If the Court please, Exhibit 13 is the planning network for desegregation of elementary schools and Exhibit 14 is the planning network for desegregation of secondary schools.

Mr. Chambers: Your Honor, we'd like to point out for the record that we have not seen either one of those exhibits.

Court: We are still operating under a somewhat unusual set of circumstances here.

Q. Dr. Self, have you given consideration to the planning network required for pairing these schools? A. Yes, we have.

Q. Would you describe the network for the events that you must reach to accomplish that desegregation? A. To save the time of the Court, Mr. Waggoner, the planning network is essentially the same as that for the elementary schools affected by restructuring attendance lines. The [94] handicapping feature is the transportation so while you can draw the planning network, it's difficult to put dates on it until such time as you clear the question of transportation entirely.

Q. Dr. Self, with reference to transportation you testified that the pairing alone would require the transportation of something in the neighborhood of 10,000 children. Dr. Finger's plan proposes transporting all students irrespective of where they live if they reside a mile and a half from their school. Do you know approximately how many stu-

*William C. Self—for Defendant—Direct*

dents would have to be transported additionally under Dr. Finger's plan?

Mr. Chambers: Objection.

A. Mr. Waggoner, I believe Mr. Morgan can answer the questions regarding transportation with more clarity.

Q. All right. Does your budget have funds for acquisition of a substantial number of buses? A. No, sir.

Mr. Waggoner: We have no further questions at this time.

Court: I don't mean to try to make a tough job seem easy but I do want to be sure I have a simple little accurate picture of what you have said to me. As I understand it, you think it would be administratively possible or practicable to complete the reassignment of the elementary students who are being relocated by [95] rezoning by the 1st of April or thereabouts.

A. Yes, sir.

Court: And the reassignment of the students who are to be relocated by pairing or clustering, if that is directed, will be dependent in any given case on what transportation can be arranged.

A. That's true, sir.

Court: Is it correct to say that the pairing and clustering of schools is a method which can be set up for any particular group or cluster of schools as a small amount of transportation does become avail-

*William C. Self—for Defendant—Direct*

able without waiting for the same thing to take place with respect to all the other pairs or clusters?

A. It's correct to assume that. I think we said earlier that the pairing arrangement usually identified one black school and two or three whites. If you had a limited amount of transportation available, you could move with those schools and move then with other clusters of schools as additional transportation became available.

Court: And your present recommendation would be to the Board that the transition for the junior and senior highs not actually take place until towards the end of May?

A. That would be my recommendation, yes, sir.

Court: You use the date May 26, what is the present [96] scheduled time for the completion of the conventional school year?

A. June 9.

Court: So this would give what, a full week?

A. It would give two, if I'm not mistaken.

Court: Well, you've got five more days in May. That's two weeks by the calendar, but is the graduation not usually removed by a few days from the end of the actual school year?

A. Yes, sir, usually the commencement exercise precedes the end of the school year.

*William C. Self—for Defendant—Direct*

Court: Have you got a calendar there?

A. No, sir. I looked for one and I do not have one.

Court: I was wondering when Easter is. Isn't it quite early in April this year?

Marshal Beam: 29th of March.

A. I have a calendar here now.

Court: April 1 is the Wednesday after Easter.

A. That's correct.

Court: At the present time by the number, just about half of the elementary students, black elementary students who are going to schools that are very nearly or all black or entirely black, are they not? Have you ever run a total on that?

A. I'm sure that we have although I find it very hard to keep all [97] the figures in my mind, Your Honor.

Court: How many students, Dr. Self, not in exact amounts but approximately, of the elementary students will be involved in the defective desegregation that will result from restructuring the elementary attendance lines?

Mr. Waggoner: If the Court please, I might direct his attention to Page 23 of the Weil report.

A. Let's see if we can piece this together. From Page 23 we can get an approximation of the number of students in the elementary schools as being approximately 45,000. The

*William C. Self—for Defendant—Cross*

children who would be involved in the pairing arrangement in the schools that I listed earlier would total 22,000.

Court: You mean they would be involved in it as persons attending those schools, not necessarily persons being transported.

A. That's right, they would be. In other words, all of the paired schools the total pupil population would be approximately 22,000. That would mean that in school A, which was a 1 through 4 school that the white pupils there would be in the school and counted in the 22,000. The black children would be bused in. Vice versa on the 5 through 6 schools. If you take 22,000 from the 45,000 you get a very rough approximation that 23,000 of our youngsters are in the zoned schools and about 22,000 are in the paired schools.

[98] Court: Do counsel for the plaintiffs have any questions of Dr. Self?

Mr. Chambers: Just one or two, Your Honor.

*Cross Examination by Mr. Chambers:*

Q. Dr. Self, were you present at the Board meeting where you decided to employ Systems Analysis to prepare this plan for you? A. Yes, sir.

Q. Do you recall what instructions, if any, you gave Systems Analysis to follow in the preparation of these plans? A. Yes, sir, and the instructions are part of the report.

Q. Did you instruct Systems Analysis not to consider pairing or clustering of any schools? A. We did.

Q. Did you agree to a contract price per hour or per day for the work by Systems Analysis? A. Yes, we did.

*William C. Self—for Defendant—Cross*

Q. What price was that?

Mr. Waggoner: Objection.

Court: Overruled.

A. The price varied according to the individuals who would be employed.

Q. Would you tell us the price per day or per hour for the work by Systems Analysis?

[99] Mr. Waggoner: If the Court please, this is totally irrelevant to the considerations before the Court. I think it's some attempt on the part of the plaintiffs to try to embarrass the Board in some way.

Court: Well, I believe lawyers and consultants all ought to be paid whether hired by the Board or appointed by the Court. I saw in his report, though, I believe that he had 200 days of work on it. I guess that's a good deal more than Jack Finger has been able to put on it in the last few weeks, isn't it? I don't think that's relevant.

Q. How much did you pay Systems Analysis, Dr. Self?

Mr. Waggoner: Objection.

Mr. Chambers: I'd like to get that in the record, Your Honor.

Court: Overruled. How much have you paid them up to now?

A. I don't really recall the exact figure, Your Honor. I can make an approximation.

Court: Give us your approximation.



*William C. Self—for Defendant—Cross*

Mr. Waggoner: Objection.

Court: Well, go on.

A. I'd say approximately ten to \$11,000.00.

Court: So far. Do you think you got your money's worth?

[100] A. Yes, sir.

Court: Did having Dr. Finger here help in some ways to move along towards the solution of a very knotty bunch of problems?

A. Yes, sir.

Q. Now, on the high school map where you were talking about Piedmont, as I recall, just taking West Charlotte, for instance, your line proposed extends out to the county line, is that correct? A. That's correct.

Q. Now, I believe under the present state law you would be providing bus transportation for basically all of the students in the county coming into West Charlotte. A. That's true.

Q. It would just be the students now in this small area here who would not be receiving bus transportation? A. That's right.

Q. I believe that for East, as another example, your line goes up into the inner city but because East is in the county these students, too, would be receiving bus transportation. A. That's correct.

Q. The same thing would be true of South, I believe you talked about, too. A. That's right.

Q. In fact, you contemplate quite a bit of bus transporta-

*William C. Self—for Defendant—Cross*

tion [101] under your plan. A. Within the attendance area, yes, sir.

Q. The same would be true of the junior high schools. A. That's right.

Q. I think you told the Court a moment ago a kid residing in the city, assigned to a school in the county would receive bus transportation. A. Yes.

Q. Or assigned to a school annexed to the city subsequent to 1957. A. Until that date in April where all of this is supposed to reach a climax in the court.

Court: That's a different court.

Mr. Chambers: I understand, Your Honor.

Q. And vice versa for the kids in the county coming into inner-city schools. A. Transported?

Q. Yes. A. Yes.

Q. So under both plans, in order to desegregate the schools, you would require some bus transportation for the students. A. Yes.

Q. Now, Dr. Self, in preparation of your plan how did you intend to provide bus transportation for these students who under the state law would be entitled to bus transportation, if you [102] had to implement it this year? A. Well, the larger number of pupils we have under consideration here are at the secondary level and you notice in our planning network what we were intending to do was to assign the pupils, register them, build a master schedule and postpone the actual movement of the student into the school until that date of May 26. This has the effect of postponing the need for the buses until that time.

Q. Did you plan to get the buses by that time? A. We are investigating every possible means of acquiring buses.

*William C. Self—for Defendant—Cross*

Q. Was it your intent to inform the Court you were going to have bus transportation by that time?

Mr. Waggoner: Objection, if the Court please. Our plan has stated it proposed implementation in 1970, September.

Court: He's simply asking what the testimony was. My notation as to the testimony that gives rise to the question is that on the 26th of May the transportation system would be operating as far as the junior and senior high schools are concerned. That's what you said, I believe, wasn't it?

A. That's true. We set the date. It's our intent to either if we have the buses we will use them; if we don't, we'll try to implement some other technique such as staggering the opening of school, pressing activity buses into service, or something [103] of that nature, or perhaps use contract transportation.

Q. You did intend to have bus transportation by that time, did you not? A. Yes.

Q. Where were you planning to get the money for that?

A. We would have to approach the County Commissioners and petition them for the money to purchase any additional buses needed and then, of course, we would overature the State to pick up the operational costs.

Q. In fact, you had intended to go back to the County Commissioners to get additional funds for buses. A. This amount of busing, yes, sir.

Q. Now, how many buses did you contemplate you would need under your plan? A. I don't have that detail. I think we'll have to have that testimony supplied by Mr. Morgan.

*William C. Self—for Defendant—Cross*

Q. Do you have any idea of how much money you would need to provide buses under your plan? A. No.

Q. Have you, in fact, or the Board consulted with the County Commissioners about the availability of additional funds? A. I have not.

Q. To your knowledge has this been done by the Board? A. If it has, it has not been done in formal board session.

Q. To your knowledge has it been done? [104] A. I think there have been conversations between Board members and members of the County Commissioner.

Q. Isn't it a fact, Dr. Self, that the Board has advised you that they might make funds available for bus transportation? A. No, sir, they have not.

Q. The County Commissioners have not?

Court: Mr. Chambers, I think this further pursuit of the transportation question is also irrelevant because as I read what the courts are saying, the fact it may cost some money is not a legal reason to do or not to do anything about it.

Mr. Chambers: All right, I'll pursue another subject.

Q. Dr. Self, how do you buy buses in the State for this system? A. I buy the buses through the State Department of Public Instruction.

Q. Does the State Department of Public Instruction maintain distribution centers around the State? A. I do not know.

Mr. Waggoner: If the Court please, we might shorten this. We have a man who is with the State Department here today to testify and he can give precise answers.

*William C. Self—for Defendant—Cross*

Court: Well, I always learn when I keep my mouth shut but I really think that within the limits of what we're talking about here are the things I have to do that won't be helped by knowing a lot of detail about [105] transportation, I really do.

Mr. Chambers: I'll withdraw the question, Your Honor, and go to another area.

Court: Dr. Self, am I correct in my recollection that the budget of the school system for this year is fifty million dollars?

A. Closer to forty-five million, I think, Your Honor.

Court: Does that include money supplied by the State?

A. Yes, it does.

Court: As well as local.

A. A combination of all sources, State, Federal and local.

Q. Looking at your time schedule that you introduced Exhibits 13 and 14, why would it take until February 17 and February 25 to get Board approval of a map? A. The major reason can be found in the activities which precede that event. The work must be parceled out among a large number of people. The principals must be involved in this. It virtually will be necessary in some cases to ride the districts and actually make a visual survey where the computer did draw the lines and to take into account any hardships as far as transportations are concerned, and things like that. The time is not for Board approval. The time would be in the preparation of the maps where we would feel confident in recommending the maps to the Board for approval.

*William C. Self—for Defendant—Cross*

Q. Are you suggesting that those maps are not the maps for the [106] Board? A. They are the maps of the Board but in approving that—and I believe that's contained in the study as well—it is admitted that they will have to be examined very carefully with a view toward eliminating any discrepancies that have not yet been found.

Q. If the Court were to order implementation of the Finger plan, would you have to redraw those lines? A. Yes, sir.

Q. You don't think they are accurate? A. They are accurate, the lines are accurate. Our major problem is to adapt the grid line to an identifiable natural geographic marker. It may be necessary to even go so far as to say this lines goes between these two houses.

Q. Why would it be necessary to wait until March 25th before actual assignment of pupils? A. Because of the various activities that must be accomplished prior to that event.

Q. Why did you figure on starting a new year for the secondary students rather than transferring them now? A. For the most part because their curriculum in the new school would stand a pretty good chance of being altered from the course of study that they had in the old school. We figured it would be better to move the seniors on out to get over the problem of whether or not they would graduate from the school [107] they had attended, to make room in the senior school to accommodate the rising 10th grade class and start them off on a new year.

Q. If the Court were to order you to integrate the schools by March 1st, would you be able to accomplish it? A. If the Court would order us to integrate by March 1st, all the activities and events that you see outlined before you

*William C. Self—for Defendant—Cross*

would have to be accomplished in one way, shape or form before it could be done.

Q. In your opinion could it be done? A. No.

Court Reporter's Note: At this point in the proceedings there was applause from some of the spectators.)

Court: Any more demonstration and the courtroom will be cleared.

Q. Could it be done by April 1st? A. I think that we get back to comment that the judge offered in opening this case on Monday. He wanted the minimum amount of time but at the same time the amount of disruption to be considered. If you disregard the amount of disruption that would be caused to secondary pupils with April 1st transfers, I suspect it could be done administratively.

Court: Mr. Chambers, I think you've got a can-do man here and that's why I wanted his serious recommendations on the very practical problems that have got to be [108] dealt with. Let me ask another question about the technique of drawing some of these pupil attendance lines. How about turning to the junior high map. If you examine the Board's map for the rezoning of the junior high attendance lines, you find some of them with corridors a half-mile wide and five miles long, reaching from a suburban area into an inner-city pocket. From the standpoint of administration and ease and economy of transportation which is easier, to have a pocket of people in the center of town who are close together and easy to identify and have them transported by the most convenient route to some suburban school, or

*William C. Self—for Defendant—Cross*

in the opposite direction, as the case may be? Is that not more convenient than having a half-mile wide corridor which may have to attend the school several miles away?

A. Yes, sir. I think that the net effect in terms of your transportation system is that you probably would have one or two pickup points in that satellite zone and then express the bus to the school. Whereas in the corridor you would probably have a number of on route pickup points.

Court: Is that transportation problem compounded by the fact that the streets in Charlotte are laid off sort of slantwise or catercornered and these corridors run diagonally across the major thoroughfares?

[109] A. Well, I'm not sure whether that's the case in point. I think certainly our transportation problems, operating within the city limits, are going to be quite different from the transportation problems in the rural areas.

Court: Mr. Hicks, what's the name of that junior high on the lower left center which has a finger extending?

Mr. Hicks: Smith.

Court: Taking Smith Junior High as an illustration, doesn't the corridor extending north into the center of town from Smith Junior High extend as far as the satellite zone that Dr. Finger has set up for Smith Junior High?

A. Basically it does, yes, sir?



*William C. Self—for Defendant—Redirect*

Court: That's true of Sedgefield and a number of others, is it not?

A. Yes, sir.

Court: It has to be true to get substantially the same result, doesn't it?

A. That's right.

Court: Is this part of the problem that needs to be worked out whichever one of these plans is used?

A. Yes, sir. Quite frankly, we do not have a perfect answer to the question of natural geographic lines versus grid lines. Grid lines give us the ability to manipulate data by the [110] computer and it has the disadvantage of not being visible to people so they can say I am in this school zone or that school zone. The natural geographic boundary has the advantage of being clearly identifiable by the citizenry but at the same time does not lend itself to mass manipulation of pupil data.

Court: I think I have run out of questions. Do you have any more, Mr. Waggoner?

*Redirect Examination by Mr. Waggoner:*

Q. With reference to Smith Junior High, is it not true that the junior high attendance districts are substantially larger than the elementary districts? A. Yes, they are.

Q. So, there's not quite a parallel between the Smith Junior High and the elementary cross-busing, is there, because you're dealing with different age students? A. Of course, you're dealing with different age students and if

*D. J. Dark—for Defendant—Direct*

you're speaking about a single school, you do not have the cross-busing. If you're talking about the school system, bringing into account the present all black junior highs, you're talking about two-way busing in that whites would be bused into Northwest, Williams, Kennedy.

Mr. Waggoner: I have no further questions.

Mr. Chambers: We have no further questions.

**[111]** Court: Thank you, Dr. Self.

Mr. Horack: If Your Honor please, we'd like to call Mr. J. D. Morgan.

Court: I'm going to run out of time in about a half-hour, Mr. Horack. Are you going to run out of witnesses by then?

Mr. Horack: I'd seriously doubt it.

If Your Honor please, in compliance with your suggestion earlier we had various exhibits which we went ahead and had marked. Mr. Chambers, you want these now?

Mr. Chambers: Are those all of them?

Mr. Horack: It's Exhibits 5 through 12 with the exception of 8 and 9 which I do not have copies. 5 through 12 are all offered in evidence.

. . . . .

**[137]** *Direct Examination by Mr. Horack:*

Q. State your name, please. A. My name is D. J. Dark.

Q. What is your position? A. My position is Director of the Division of Transportation, State Board of Education.

Q. And your office is in Raleigh? A. Yes, it is.

Q. I hand you Defendant's Exhibit #8 and ask you what it is and whether you are familiar with its contents.

*D. J. Dark—for Defendant—Direct*

Court: What is it?

Mr. Horack: It's a letter from the State Superintendent Craig Philips to Dr. Self.

Court: Let Mr. Dark testify about what he knows. I'll read the letter and see if it's competent. Did he write the letter?

A. No, I assisted in the preparation of it.

Q. Mr. Dark, although that letter is over the signature of Dr. Craig Philips have you indicated you did write it?

A. Well, I did not write it. I had a part in its preparation.

Q. Do you agree with the analysis of Dr. Craig Philips as set forth herein as it relates to the availability of buses and financing for them?

Mr. Chambers: Objection.

[138] A. Yes, I do with one clarification. The availability of buses . . .

Court: The question is, Mr. Dark, do you know the facts in the letter, whatever they are?

A. Yes, I do.

Court: Use the letter to refresh your memory and go ahead and testify.

Q. The letter says there are 75 at a maximum, at the very outside, 75 buses can be made available. If you agree with that statement, please do so, if you do, and explain why.

A. I agree. That is the largest number that we felt like that could be made available to Mecklenburg County until a new contract was let and a new order for buses placed.

*D. J. Dark—for Defendant—Direct*

Q. When is the earliest time that a new contract can be let? A. We hope that one can be let by March 27.

Q. After a new contract is let and an order is placed for buses, from your experience stemming from the past how long does it take to obtain a bus from a manufacturer after it's once ordered? A. Approximately six to seven months. This means that if conditions are favorable. If conditions are unfavorable it will take longer.

Q. Is there currently any unusual strain on the bus manufacturers as far as the amount of orders they are receiving? A. The usual rush period is from approximately March through September. At this time most manufacturers have as many [139] orders as they can fill during that period. The reason for this rush period, school administrators are purchasing buses. So to have them delivered prior to the opening of school, many orders have already been placed.

Q. The testimony has indicated that under the board's plan 104 buses will be required. How long would it take to fulfill the need for those 104 buses? A. I would say they could be delivered by October or November, in the fall.

Q. Under Dr. Finger's plan 297 buses are required . . .

Mr. Chambers: Objection.

Q. . . . purely on the basis that State law busing is provided and confined to that, how long would that take?

Mr. Chambers: Objection, Your Honor.

Court: Overruled.

A. That number could be delivered in about the same length of time.

*D. J. Dark—for Defendant—Direct*

Q. And you state that 75 buses is the maximum number that can now be made available to this system? A. That are in possession of the State Board of Education.

Mr. Horack: This is a letter, Your Honor, it's Defendant's Exhibit #9, a letter from the Supervisor of Purchases to the Charlotte-Mecklenburg Board of Education, of which you do not have a copy, Mr. Chambers.

[140] Q. Please read that letter and tell me whether you agree with the statement set forth therein. A. This letter is addressed to the Charlotte-Mecklenburg Board of Education, Post Office Box 149, Charlotte, North Carolina, Attention: Mr. J. R. Cameron. Gentlemen:

Mr. Chambers: I object to the reading of this letter. There is no foundation that Mr. Dark had any connection in the preparation of it.

Court: The letter is from whom?

A. This letter, Your Honor, is from Mr. A. W. Allers. He's Purchasing Agent, an Assistant Purchasing Agent for purchasing contracts.

Court: Objection is sustained.

Mr. Horack: That's all, Your Honor.

Mr. Chambers: Your Honor, I know the Court wants to leave but we would certainly have some examination of Mr. Dark. My understanding of the testimony presently is that it's concerned with purchasing new buses and we would like to examine him

*D. J. Dark—for Defendant—Cross*

relative not only to the new buses and present availability, but . . .

Court: Go ahead and examine him. I said a while ago I was going to take his testimony.

*Cross Examination by Mr. Chambers:*

Q. Mr. Dark, is there a distribution center for buses in the [141] State of North Carolina? A. Usually there are one or two distribution centers, depending on the number of manufacturers who are awarded contracts.

Q. Does the State Board of Education itself maintain a distribution center? A. No.

Q. Is there a center in Winston-Salem, North Carolina? A. This center is maintained by Wayne-Devco Corporation from Richmond, Indiana.

Q. Does the State have anything to do with it? A. Yes, it's on the State, well, it's on the Winston-Salem-Forsyth County school bus garage.

Q. And isn't it under your supervision as Director of Transportation for the State of North Carolina? A. After the buses are delivered to us, it becomes under our supervision, yes.

Q. Aren't there some buses there right now? A. Yes, there are some there.

Q. Tell the Court how many buses are there right now. A. There are approximately eighty buses there.

Q. Where is the other center for distribution in the State? A. At the present time?

Q. Yes, sir. A. Perley A. Thomas Car Works.

Q. Where is that? [142] A. High Point, North Carolina.

Q. Is that directly under your supervision also? A. That's under the Perley A. Thomas Car Works' supervision. However, they build buses for the State of North

*D. J. Dark—for Defendant—Cross*

Carolina and turned over to the State Board of Education.

Q. Don't you have some there right now, Mr. Dark? A. Yes, we do.

Q. Tell the Court how many you have there. A. I'm not sure how many is at High Point. I can tell you the total number that we have in North Carolina.

Q. What's the total number? A. At the present time on hand we have 412 buses.

Q. The other center I believe is in Wilson, isn't it? A. No center in Wilson. At the present time we have a few buses parked in Nashville, North Carolina.

Q. That's the eastern district distribution center. A. It is at the present time, but it could be in Salisbury, it could be in Wilson. At the present time that isn't a distribution center except at the present time we're storing a few buses there.

Q. What you do is just store these buses around at these areas we just talked about? A. We have for this year, yes.

Q. And you can sell those buses to any school board in the State? A. We could but we're not in a position to.

[143] Q. You can sell them to any school district in the state, can't you? A. Let me explain my answer.

Q. Would you say yes or no and then explain it? A. I don't think it's a yes or no question.

Court: The question is are you free to sell the buses to any local board that can pay for them.

A. Your Honor, we have obligations to a hundred counties in North Carolina.

Court: I think he's trying to find out if you can sell these buses to anybody you take a notion to sell them to.

*D. J. Dark—for Defendant—Cross*

A. No, sir, they can only be sold to the Boards of Education.

Court: Any Board of Education you choose to sell to, that's the question.

A. That is correct. However, may I substantiate that?

Court: Yes, sir.

A. When we said 75 buses to Charlotte-Mecklenburg, we promised or committed to them 12% of the buses we have on order and they are operating 3% of the buses in North Carolina. It seems that we extended our help there as much as possible. Let me go along further. At the present time there are approximately 10,000 buses in North Carolina in dire need of replacements. These buses that I've told you about have been purchased for replacements. It means that if 75 are sold to [144] Mecklenburg County, the children will have to suffer for lack of replacement buses that ride these other 1087 buse.

Court: How many buses do you buy and sell to county boards a year?

A. We had anticipated approximately 100 for this year.

Court: To all of them?

A. Yes, sir. We have anticipated about that number for next year.

This is an extraordinary situation.

Q. Mr. Dark, what would prevent you from replacing these buses you're talking about replacing in October



*D. J. Dark—for Defendant—Cross*

when you get the new order? A. We plan to place an order after July 1st. We've spent the money that's available for bus purposes up to July 1st.

Q. You do plan to purchase some more for this coming school year and you say they would be available in October or November, didn't you? A. That is correct.

Q. You've got 400 and some buses and you say some of them you intend to use to replace existing buses. A. That's correct.

Q. What would prevent you from using those buses you have now for Charlotte-Mecklenburg and replacing these other buses in October or November? A. We also have obligations to other counties all over the State who need capital outlay buses just like Mecklenburg County, [145] desegregated schools, and what have you.

Q. Do you have an order for those buses? A. No, but we will have.

Q. You don't have presently? A. Not at the present time.

Q. What do you do with buses that you replace? A. They are priced for sale eventually and sold.

Q. Don't you keep some on hand? A. Yes, we do.

Q. How many of those do you have on hand? A. We have 375.

Q. On hand now? A. On hand.

Q. I believe the State statute permits the Board to purchase a bus to operate or contracting service with some other service, is that correct? A. That is correct.

Q. In other words, Charlotte-Mecklenburg school system could contract with the City Bus Lines to operate buses in the city, could it not? A. It could if it had sufficient funds.

Q. Well, the State would pay the funds, as I understand

*D. J. Dark—for Defendant—Cross*

it, as long as they satisfied the State requirements. A. The State will pay per capita cost of that amount on the basis of what the cost is to Mecklenburg County to operate [146] their buses.

Q. You're familiar with General Statute 115-189? A. Is that the statute that has to do with contract transportation?

Q. That's right. A. Will you read that all the way through?

Q. Are you also familiar with 115-190, that's also dealing with contract transportation. A. I'm not familiar with all the numbers.

Mr. Waggoner: If he'd show the book to the witness, he could identify them. I can't recall these statutes either.

Mr. Chambers: I don't mind showing him the book.

Q. You're looking at 115-190? A. That's correct. That's the one I was talking about.

Q. It does provide for the State paying for transportation of students whose transportation is contracted?

A. On what basis? Read the whole statute.

Q. You read it. A. I just told you that.

Mr. Horack: Your Honor, I don't think the witness ought to be asked to interpret the general statutes.

Court: What was the question?

Mr. Chambers: I was asking the witness only, Your Honor, what practice the State had followed with [147] respect to contracting bus services.

*D. J. Dark—for Defendant—Cross*

Court: Objection overruled. What practice does the State follow in contracting bus services?

A. At the present time the State does not contract any transportation and so far as I know very little, if any, is contracted other than Special Education with transit bus companies. A contract as you mentioned in the law there, with the transit bus company or any other company, would be done by local boards of education rather than the State Board of Education and the statute specifies that the local unit could use any State money that it would generally use for the operation of its buses, regular buses. It also specifies that local boards can supplement the amount necessary if they prefer contracts to pay these contracts.

Q. Mr. Dark, the only thing I'm asking is under the present practice of the State wouldn't the local board be able to contract to provide transportation with the City Bus Company where the children would qualify for bus transportation under the State law? A. Under the law, they would.

Q. And their transportation expenses would be paid for by the State of North Carolina. A. Not necessarily in total.

Q. Well, whatever the State would allow for transportation, is that correct? [148] A. Whatever they would cost on a per pupil basis on the regular transportation.

Q. So your agreement with this letter of February 3rd would have to be taken subject to what you have just testified to? Do you recall this letter of February 3, 1970? A. What's your question?

Q. I think you said you agreed that only 75 buses would be available. A. That is correct.

Q. But you also said you had 400 and some buses new

*D. J. Dark—for Defendant—Cross*

and 400 and some used buses? A. I can qualify that by saying we have obligations to one hundred counties.

Court: Answer the question and then qualify it.

A. Yes.

Court: You've got about 400 new buses and 375 old buses?

A. Yes.

Court: Are those the figures you said?

A. Yes. Could I qualify those? Insofar as the used buses, if they had been in such shape . . . first let say these buses that have been replaced and the ones that I have mentioned that need to be replaced are thirteen and fourteen years old. They have been in service that long. Had they been in such shape that we would have wanted to continue them in operation, we [149] wouldn't have replaced them in the first place, we wouldn't have authorized them being replaced. And your second question is what?

Q. I just wanted to follow that up a little bit. As I recall, the State practice was to take these buses back and doctor them up and then resell them to other groups?

A. They are priced for sale but they are sold as is where they are.

Q. And several groups buy them and use them? A. And recondition them, that's correct.

Mr. Chambers: I have nothing further at this time.

Court: Anything else?

*D. J. Dark—for Defendant—Redirect**Redirect Examination by Mr. Horack:*

Q. Mr. Dark, are these buses that have been retired and obsolete, why are they obsolete? Don't they include junked buses and you say typically they are about twelve to fourteen years old? A. Yes, they are at least that.

Q. Are these buses suitable for bringing into a system such as Charlotte-Mecklenburg and put into a bus transportation system like ours? A. In my opinion they would not be.

Q. Would we have an assurance that those buses when they're being driven from wherever they are now to Charlotte that they'd make it? [150] A. I wouldn't guarantee it.

**Motion for Hearing on Plans for Desegregation of  
Charlotte-Mecklenburg Public Schools**

(Filed February 6, 1970)

The Defendants, the Charlotte-Mecklenburg Board of Education and the individual Board members, respectfully move the Court that:

1. Before issuing any Order in response to the Plaintiffs' "Motion for Immediate Desegregation of the Public Schools in Charlotte and Mecklenburg County" (dated January 19, 1970) a hearing be held at a time to be fixed by the Court regarding the "Plan for Desegregation of Schools" filed by the Charlotte-Mecklenburg Board of Education on February 2, 1970, and the Plan filed or to be filed by Dr. John A. Finger, Jr. in response to the December 1, 1969 Order of the Court.

2. At said hearing the Defendants be heard and permitted to introduce evidence relating to the "Board Plan" and the "Finger Plan" and the implementation of these Plans.

3. Dr. John A. Finger, Jr. be present at said hearing and available for examination by the Defendants regarding each of the above-mentioned Plans.

4. In the alternative, if said hearing is not held as requested in this Motion, the Defendants be permitted to tender pertinent evidence regarding the two Plans and related matters.

In support of this Motion the Defendants show the Court that the hearing and evidence referred to herein is necessary for a full explanation and evaluation of each of the two Plans and with reference to the implementation re-

*Motion for Hearing on Plans for Desegregation of  
Charlotte-Mecklenburg Public Schools*

quested in the above-mentioned Motion heretofore filed by  
the Plaintiffs.

WHEREFORE, the Defendants respectfully pray the Court  
that it grant the request of the Defendants as set forth in  
the foregoing Motion.

This 4 day of February, 1970.

WILLIAM J. WAGGONER  
William J. Waggoner  
Weinstein, Waggoner, Sturges, Odom  
& Bigger  
1100 Barringer Office Tower  
Charlotte, North Carolina

BENJ. S. HORACK  
Benj. S. Horack  
Ervin, Horack & McCartha  
400 Attorneys Building  
Charlotte, North Carolina

BROCK BARKLEY  
Brock Barkley  
Law Building  
Charlotte, North Carolina

*Attorneys for Defendant, Charlotte-  
Mecklenburg Board of Education*

**Order dated February 5, 1970**

On December 2, 1969, this court appointed Dr. John A. Finger, Jr., of Providence, Rhode Island, to study the Charlotte-Mecklenburg school system and advise the court how the schools could be desegregated. The defendant school board, by order of December 1, 1969, had been extended a fourth opportunity to submit a plan if they wished. Dr. Finger went to work; the school staff worked with him; and they have produced some extremely useful information and reports, which will be referred to in this order as the Board plan and the Finger plan.

Hearings on the plans were conducted on February 2 and February 5, 1970.

The Board plan, prepared by the school staff, relies almost entirely on geographic attendance zones, and is tailored to the Board's limiting specifications. It leaves many schools segregated. The Finger plan incorporates most of those parts of the Board plan which achieve desegregation in particular districts by re-zoning; however, the Finger plan goes further and produces desegregation of all the schools in the system.

Taken together, the plans provide adequate supplements to a final desegregation order.

The court would like again to express appreciation to Dr. Finger for the intelligence, resourcefulness and tact with which he has pursued his difficult assignment, and to Dr. William Self, Superintendent of the schools, and to his able staff, for the excellent work done by them in their difficult role of helping prepare one plan to comply with what the court believes the law requires, and simultaneously preparing another plan to suit the majority of the School Board who, at last reckoning, still did not appear to accept the court's order as representing the law of the land.



*Order dated February 5, 1970*

The court is also grateful to the Board's outside consultant, Mr. Weil, of Systems Associates, Inc., whose two hundred days of work and whose computer studies formed the building blocks, or points of departure, for much of the work of the others.

Recent appellate court decisions have hammered home the message that sixteen years of "deliberate speed" are long enough to desegregate tax supported schools. On October 29, 1969, in *Alexander v. Holmes County*, 369 U.S. 19, the Supreme Court ordered numerous Deep South school districts to be completely desegregated by January 1, 1970; schools in Atlanta, Miami and parts of Chicago have been ordered totally desegregated; the Supreme Court in January ordered February 1, 1970, desegregation of 300,000 pupils in six Gulf Coast states; the Fourth Circuit Court of Appeals in *Nesbit v. Statesville*, — F.2d — (December 2, 1969), ordered elimination by January 1, 1970, of the racial characteristics of the last black schools in Durham, Reidsville and Statesville, North Carolina; and in *Whittenberg v. Greenville, South Carolina*, the Fourth Circuit Court of Appeals, in an opinion by Chief Judge Clement F. Haynsworth, Jr., has just last month ordered the desegregation by February 16, 1970, of the 58,000 students in Judge Haynsworth's own home town. Judge Robert Martin of Greenville, pursuant to that mandate, on February 2, 1970, ordered all the Greenville schools to be populated by February 16, 1970, on a basis of 80% white and 20% black.

In the *Greenville* opinion the court said:

"These decisions leave us with no discretion to consider delays in pupil integration until September 1970. Whatever the state of progress in a particular school

*Order dated February 5, 1970*

district and whatever the disruption which will be occasioned by the immediate reassignment of teachers and pupils in mid-year, there remains no judicial discretion to postpone immediate implementation of the constitutional principles as announced in *Green v. County School Board of New Kent County*, 391 U.S. 430; *Alexander v. Holmes County Bd. of Educ.*, 396 U.S. 19 (Oct. 29, 1969); *Carter v. West Feliciana Parish School Bd.*, — U.S. — (Jan. 14, 1970)."

These decisions are binding on the United States District Court for the Western District of North Carolina. Unless that were true, the Constitution would mean whatever might be the temporary notion of whichever one of 340-odd federal judges happened to hear the case. This is a matter of law, not anarchy; of constitutional right, not popular sentiment.

The order which follows is not based upon any requirement of "racial balance." The School Board, after four opportunities and nearly ten months of time, have failed to submit a lawful plan (one which desegregates all the schools). This default on their part leaves the court in the position of being forced to prepare or choose a lawful plan. The fairest way the court knows to deal with this situation was stated clearly in the December 1, 1969 order, as follows:

"In default of any such plan from the school board, the court will start with the thought, originally advanced in the order of April 23, that efforts should be made to reach a 71-29 ratio in the various schools so that there will be no basis for contending that one school is racially different from the others, but to

*Order dated February 5, 1970*

understand that variations from that norm may be unavoidable."

THEREFORE, and in accordance with the specific, detailed, numbered guidelines of this court's order of December 1, 1969, IT IS ORDERED:

1. That the defendants discontinue the operation of segregated schools.
2. That the defendants take such action as is necessary to desegregate all the schools—students and faculty.
3. That desegregation of faculty be accomplished, as previously ordered, by assigning faculty (specialized faculty positions excepted) so that the ratio of black and white faculty members of each school shall be approximately the same as the ratio of black and white faculty members throughout the system.
4. That teachers be assigned so that the competence and experience of teachers in formerly or recently black schools will not be inferior to those in the formerly or recently white schools in the system.
5. That no school be operated with an all-black or predominantly black student body.
6. That pupils of all grades be assigned in such a way that as nearly as practicable the various schools at various grade levels have about the same proportion of black and white students.
7. That transportation be offered on a uniform non-racial basis to all children whose attendance in any school

*Order dated February 5, 1970*

necessary to bring about the reduction of segregation, and who live farther from the school to which they are assigned than the Board determines to be walking distance. Estimates of the number of children who may have to be transported have run as high as 10,000 or more. Since the cost to the local system is about \$18 or \$20 a year per pupil, and the cost to the state in those areas where the state provides transportation funds is about another \$18 or \$20 a year per pupil, the average cost for transportation is apparently less than \$40 per pupil per year. The local school budget is about \$45,000,000 a year. It would appear that transporting 10,000 additional children, if that is necessary, and if the defendants had to pay it all, would add less than one per cent to the local cost of operating the schools. The significant point, however, is that the cost is not a valid legal reason for continued denial of constitutional rights.

8. That if geographic zones are used in making school assignments, the parts of a zone need not be contiguous.

9. That the defendants maintain a continuing control over the race of children in each school, just as was done for many decades before *Brown v. Board of Education*, and maintain the racial make-up of each school (including any new and any re-opened schools) to prevent any school from becoming racially identifiable.

10. That "freedom of choice" or "freedom of transfer" may not be allowed by the Board if the effect of any given transfer or group of transfers is to increase the degree of segregation in the school from which the transfer is requested or in the school to which the transfer is desired.

*Order dated February 5, 1970*

11. That the Board retain its statutory power and duty to make assignments of pupils for administrative reasons, with or without requests from parents. Administrative transfers shall not be made if the result of such transfers is to restore or increase the degree of segregation in either the transferor or the transferee school.

12. That if transfers are sought on grounds of "hardship," race will not be a valid basis upon which to demonstrate "hardship."

13. That the Board adopt and implement a continuing program, computerized or otherwise, of assigning pupils and teachers during the school year as well as at the start of each year for the conscious purpose of maintaining each school and each faculty in a condition of desegregation.

14. That the defendants report to the court weekly between now and May 15, 1970, reporting progress made in compliance with this order; and that they report thereafter on July 15, August 15, September 15 and November 1, 1970, and on February 1 and May 1, 1971.

15. That the internal operation of each school, and the assignment and management of school employees, of course be conducted on a non-racial, non-discriminatory basis.

16. The duty imposed by the law and by this order is the desegregation of schools and the maintenance of that condition. The *plans* discussed in this order, whether prepared by Board and staff or by outside consultants, such as computer expert, Mr. John W. Weil, or Dr. John A. Finger,

*Order dated February 5, 1970*

Jr., are *illustrations of means or partial means to that end*.<sup>1</sup> The defendants are encouraged to use their full "know-how" and resources to attain the *results* above described, and thus to achieve the constitutional end by any means at their disposal. The test is not the method or plan, but the *results*.

17. The choice or approval or partial approval of any proposed desegregation plan is subject to all the requirements and restrictions of the preceding sixteen paragraphs, as well as to any later requirements or restrictions set out in this order.

18. Subject to the above, the Board's pupil assignment plan for senior high school pupils is approved, with one

1. The following are exhibits to this order:

- A. The Board's map of proposed senior high school attendance zones.
- B. The Board's list of proposed senior high school populations.
- C. The Board's map of proposed junior high school attendance zones.
- D. The Board's list of proposed junior high school populations.
- E. Dr. Finger's map of proposed junior high school attendance zones.
- F. Dr. Finger's list of proposed junior high school populations.
- G. The Board's map of proposed elementary school attendance zones.
- H. The Board's list of proposed elementary school populations.
- I. Dr. Finger's map of proposed elementary school attendance zones.
- J. Dr. Finger's list of proposed elementary school populations.
- K. Dr. Finger's list of pairing and grouping of elementary schools and grades.

*Order dated February 5, 1970*

exception. This exception is that black students, some 300 in number, should be assigned from map grids 294D, 295C, 295D, and 318A, to attend Independence High School.

19. Although the Board junior high school plan is inferior in design and results to Dr. Finger's plan, it is a purely "home grown" product and the court would like to approve it, if it can be brought into compliance with law by desegregating Piedmont Junior High School, and by adding transportation as above indicated, and by increasing the black attendance at several outlying schools. The Board may if it wishes consider (1) re-zoning; (2) two-way transporting of pupils between outlying schools and Piedmont; (3) closing Piedmont and assigning the pupils to Albemarle Road, Carmel, McClintock and Quail Hollow. Unless the court has been notified in writing by noon of February 6, 1970, of an affirmative decision adopting one of these choices by formal Board action, the junior high schools are directed to be desegregated according to Dr. Finger's plan, as illustrated by exhibits E and F.

20. The Board's plan for elementary schools, illustrated by exhibits G and H, cannot be approved because (1) it retains nine schools 83% to 100% black, serving over half the black elementary pupils, and (2) it leaves approximately half the 31,500 white elementary students attending schools that are 86% to 100% white; and (3) it promises to provide little or no transportation in aid of desegregation, even though the plan's zones in some cases are apparently five or six miles long. The Board plan for elementaries openly rejects the duty to eliminate all the black schools.

The Finger plan uses many of the same basic attendance lines as the Board plan; however, it does not stop short of



**ERRATA**

*Order dated February 5, 1970*

the constitutional requirements, and by pairing and clustering groups of schools it achieves full desegregation of the elementary schools. The school staff worked out the details of this plan and are familiar with it. Its attendance zones are illustrated on the map, exhibit I; its elementary school populations are listed in exhibit J; and the pairing and grouping of the outlying and inner-city schools, grade by grade, are shown in detail on exhibit K. Subject to the qualifications previously stated, the Board is directed to follow the Finger plan with reference to elementary schools.

21. **THE TIME TABLE:** Deadlines to complete various phases of the program required in this order are as follows:

**SENIOR HIGH SCHOOLS.**—Seniors may remain in their present schools until the end of the school year; the Board may make any decision they deem wise about allowing seniors to transfer before graduation to schools where their race will be in the minority. *Eleventh and tenth graders* will be transferred to their new schools not later than the 4th day of May, 1970.

**JUNIOR HIGH SCHOOLS (Grades 7, 8, 9).**—Complete desegregation shall be accomplished not later than the 1st day of April, 1970.

**ELEMENTARY SCHOOLS (Grades 1-6).**—Complete desegregation shall be accomplished not later than the 1st day of April, 1970.

**FACULTY.**—Complete desegregation of the various faculties shall be accomplished by the various times set out above for desegregation of the student bodies.



*Order dated February 5, 1970*

22. **MODIFICATIONS.**—The intention of this order is to put on the Board the full duty to bring the schools into compliance with the Constitution as above outlined, but to leave maximum discretion in the Board to choose methods that will accomplish the required result. However, it is directed that leave of court be obtained before making any material departure from any specific requirement set out herein. The court will undertake to rule promptly on any such requests for deviation from prescribed methods.

23. **APPEAL.**—The court claims no infallibility and does not seek to prevent appeal from all or any part of this order, and will allow the making of any record needed to present on appeal any contention the parties desire to make, and will do what this court can to expedite such appeal. However, in accordance with *Whittenberg v. Greenville, supra*, this order will not be stayed pending appeal, and immediate steps to begin compliance are directed.

24. All evidence in the cause and all findings and conclusions in previous orders which support or tend to support this order are relied upon in support of this order.

25. Jurisdiction of this cause is retained for further orders.

This the 5th day of February, 1970.

.....  
James B. McMillan  
*United States District Judge*

*Order dated February 5, 1970*

the constitutional requirements, and by pairing and clustering groups of schools it achieves full desegregation of the elementary schools. The school staff worked out the details of this plan and are familiar with it. Its attendance zones are illustrated on the map, exhibit I; its elementary school populations are listed in exhibit J; and the pairing and grouping of the outlying and inner-city schools, grade by grade, are shown in detail on exhibit K. Subject to the qualifications previously stated, the Board is directed to follow the Finger plan with reference to elementary schools.

21. **THE TIME TABLE:** Deadlines to complete various phases of the program required in this order are as follows:

**SENIOR HIGH SCHOOLS.**—Seniors may remain in their present schools until the end of the school year; the Board may make any decision they deem wise about allowing seniors to transfer before graduation to schools where their race will be in the minority. *Eleventh and tenth graders* will be transferred to their new schools not later than the 4th day of May, 1970.

**JUNIOR HIGH SCHOOLS (Grades 7, 8, 9).**—Complete desegregation shall be accomplished not later than the 1st day of April, 1970.

**FACULTY.**—Complete desegregation of the various faculties shall be accomplished by the various times set out above for desegregation of the student bodies.

22. **MODIFICATIONS.**—The intention of this order is to put on the Board the full duty to bring the schools into compliance with the Constitution as above outlined, but to leave maximum discretion in the Board to choose methods that will accomplish the required result. However, it is directed

*Order dated February 5, 1970*

the constitutional requirements, and by pairing and clustering groups of schools it achieves full desegregation of the elementary schools. The school staff worked out the details of this plan and are familiar with it. Its attendance zones are illustrated on the map, exhibit I; its elementary school populations are listed in exhibit J; and the pairing and grouping of the outlying and inner-city schools, grade by grade, are shown in detail on exhibit K. Subject to the qualifications previously stated, the Board is directed to follow the Finger plan with reference to elementary schools.

21. **THE TIME TABLE:** Deadlines to complete various phases of the program required in this order are as follows:

**SENIOR HIGH SCHOOLS.**—Seniors may remain in their present schools until the end of the school year; the Board may make any decision they deem wise about allowing seniors to transfer before graduation to schools where their race will be in the minority. *Eleventh and tenth graders* will be transferred to their new schools not later than the 4th day of May, 1970.

**JUNIOR HIGH SCHOOLS (Grades 7, 8, 9).**—Complete desegregation shall be accomplished not later than the 1st day of April, 1970.

**FACULTY.**—Complete desegregation of the various faculties shall be accomplished by the various times set out above for desegregation of the student bodies.

22. **MODIFICATIONS.**—The intention of this order is to put on the Board the full duty to bring the schools into compliance with the Constitution as above outlined, but to leave maximum discretion in the Board to choose methods that will accomplish the required result. However, it is directed

DESEGREGATION PLAN for 1970-71

Senior High Schools

School	1970-71		1969-70			Board Plan	
	Base	Capacity +20%	B	W	T	B	W
East Mecklenburg	1700	2040	215	1925	2140	360	1716
Garinger	1874	2249	492	2148	2640	721	1914
Harding	1202	1442	612	720	1332	395	692
Independence	1047	1256	101	1111	1212	23	1241
Myers Park	1679	2015	224	1767	1991	426	1883
North Mecklenburg	1158	1390	446	1185	1631	440	998
Olympic	807	968	351	512	863	201	687
South Mecklenburg	1523	1828	90	2024	2114	482	1846
West Charlotte	1593	1912	1641	0	1641	597	1045
West Mecklenburg	1374	1649	141	1444	1585	494	998
Total	13,957	16,749	4,313	12,836	17,149	4,139	13,020
							17,159

Research Report  
January 31, 1970

The Charlotte-Mecklenburg Schools

Exhibit D

DESEGREGATION PLAN for 1970-71

Junior High Schools

School	1970-71		1969-70			Board Plan		
	Base	Capacity +20%	B	W	T	B	W	T
Albemarle Road	948	1138	63	995	1058	19	753	772
Alexander	874	1049	328	761	1089	303	698	1001
Cochrane	1190	1428	72	1544	1616	571	1150	1721
Coulwood	704	845	101	770	871	313	551	864
Eastway	1093	1312	61	1356	1417	375	971	1346
Alexander Graham	996	1194	101	1028	1129	261	888	1149
Hawthorne	850	910	550	472	1022	276	704	980
Kennedy	801	961	802	9	811	325	510	835
McClintock	923	1100	84	1288	1372	25	1048	1073
Northwest	1068	1282	1032	1	1033	296	675	971
Piedmont	631	757	408	55	463	758	84	842
Quail Hollow	1238	1486	129	1421	1550	138	1144	1282
Randolph	972	1170	279	710	989	307	683	990
Ransom	851	1021	246	548	794	295	558	853
Sedgefield	777	930	167	809	976	234	612	846
Smith	1093	1312	51	1436	1487	330	957	1287
Spaugh	826	1091	262	839	1101	346	752	1098
Williams	1044	1253	60	1145	1205	336	722	1058
Wilson	558	670	558	558	558	346	795	1141
Cornel J. H. Gunn (all grown)	558	670	558	558	558	346	795	1141

DESEGREGATION PLAN for Charlotte-Mecklenburg Schools  
Junior High Schools

831a

School	1970-71 Capacity Base	1969-70				Court Consultant Plan			
		B	W	T	%B	B	W	T	%B
Albemarle Road	948	1135	995	1058	5%	292	696	988	30%
Alexander	874	1045	761	1089	30%	335	690	1025	33%
Cochrane	1190	1423	1544	1616	5%	370	984	1354	27%
Coulwood	704	845	770	871	12%	245	568	813	30%
Eastway	1093	1312	1356	1417	4%	351	839	1190	30%
Alexander Graham	996	1194	1028	1129	8%	359	938	1297	26%
Hawthorne	850	910	472	1022	54%	290	677	967	30%
Kennedy	801	961	9	811	99%	184	606	790	23%
McClintock	923	1100	1288	1372	6%	386	925	1311	30%
Northwest	1068	1282	1	1033		336	736	1072	31%
Piedmont	631	757	55	463	89%	243	538	781	32%
Quail Hollow	1238	1486	1421	1550	9%	339	1050	1359	25%
Randolph	972	1170	710	989	28%	402	832	1234	33%
Ranson	651	1021	548	794	31%	264	583	847	31%
Sedgefield	777	930	509	976	17%	171	641	812	21%
Smith	1093	1312	1436	1487	4%	350	929	1279	27%
Spaugh	826	1091	339	1101	24%	324	807	1131	29%
Williams	801	967	0	1081	100%	308	727	1035	30%
Wilson	1044	1253	1145	1205	5%	230	570	800	29%
Carmel	558	670				142	444	566	24%
J. H. Gunn	558	670				49	475	524	9%
Total	18,796	22,546	5,877	21,064		5,970	15,255	21,225	

DESEGREGATION PLAN for 1970-71

Elementary Schools

School	1970-71		1969-70*				Board Plan			
	Base	Capacity +12%	B	W	T	%B	B	W	T	%B
Albemarle Rd.	432	484	4	510	514	1%	4	469	473	1%
Allenbrook	540	605	61	452	513	12%	59	496	555	11%
Ashley Park	621	696	27	574	601	4%	155	421	576	27%
Bain	702	786	33	735	768	4%	25	706	731	3%
Barringer	486	544	843	16	859	98%	203	320	523	39%
Berryhill	836	936	98	639	737	13%	247	574	821	30%
Beverly Woods	540	605	68	684	752	9%	8	648	656	1%
Billingsville	594	665	596	0	596	100%	113	325	438	26%
Brierwood	540	605	6	680	686	1%	2	663	665	0%
Bruns Ave.	675	756	759	10	769	99%	624	73	697	90%
Chentilly	432	484	0	472	472	0%	142	303	445	32%
Clear Creek	324	363	48	229	277	17%	43	266	309	14%
Collinswood	621	696	111	443	554	26%	224	448	672	33%
Cornelius	459	514	181	235	416	44%	182	265	447	41%
Cotswold	540	605	23	537	560	4%	128	449	577	24%
Davidson	324	363	104	186	290	36%	102	174	276	32%
Marie Davis	756	847	662	0	662	100%	666	82	748	88%
Derita	783	877	150	678	828	18%	152	595	747	20%
Devonshire	648	726	0	903	903	0%	0	925	925	0%
Dilworth	648	726	90	317	407	22%	241	376	617	39%
Double Oaks	675	756	836	0	836	100%	825	3	828	100%
Druid Hills	486	544	472	3	475	99%	465	20	485	96%
Eastover	648	726	42	559	601	7%	157	478	635	25%
Elizabeth	405	454	314	125	439	72%	112	294	406	28%
Enderly Park	513	575	3	371	374	1%	119	238	357	33%

832B

DESEGREGATION PLAN for 1970-71

Elementary Schools

833B

School	1970-71		1969-70				Board Plan		%
	Base	Capacity +12%	B	V	T	%	B	T	%
First Ward	702	786	805	0	805	100%	770	777	99%
Hickory Grove	459	514	70	533	603	12%	74	630	12%
Hidden Valley	648	726	0	1100	1100	0%	1	1077	0%
Highland	297	333	69	305	374	18%	76	313	24%
Hoskins	297	333	13	212	225	6%	124	343	36%
Huntersville	675	756	145	531	676	21%	130	684	19%
Huntingtowne Farms	594	665	7	603	610	1%	3	617	0%
Idlewild	567	635	47	581	628	7%	59	608	10%
Irwin Ave.	378	423	292	0	292	100%	*	259	35%
Ansley James	378	423	462	3	465	99%	90	169	35%
Lakeview	378	423	346	89	435	80%	119	404	29%
Lansdowne	756	847	75	802	877	9%	79	798	10%
Lincoln Heights	648	726	711	0	711	100%	903	909	95%
Long Creek	702	786	267	468	735	36%	259	782	33%
Matthews	945	1058	86	802	888	10%	81	918	9%
Merry Oaks	486	544	0	442	442	0%	0	557	0%
Midwood	459	514	9	437	446	2%	116	517	23%
Montclair	675	756	0	718	718	0%	1	782	0%
Myers Park	432	484	22	444	466	5%	150	464	32%
Nations Ford	621	696	43	669	712	6%	177	725	24%
Newell	594	665	74	438	512	14%	64	500	13%
Oakdale	540	605	69	517	586	12%	202	662	31%
Oakhurst	594	665	5	616	621	1%	92	596	15%
Oakview	594	665	584	0	584	100%	597	600	99%
Olde Providence	540	605	80	512	592	14%	83	544	15%

\*distributed to surrounding schools



## DESEGREGATION PLAN for 1970-71

## Elementary Schools

School	1970-71		1969-70				Board Plan			
	Base	Capacity +12%	B	W	T	%	B	W	T	%
Park Road	540	605	44	548	592	7%	41	571	612	7%
Paw Creek	594	665	27	609	636	4%	83	602	685	12%
Paw Creek Annex	270	302	30	271	301	10%				
Pineville	486	544	136	356	492	26%	123	379	502	25%
Pinewood	648	726	0	674	674	0%	0	900	900	0%
Plaza Road	459	514	80	340	420	19%	181	350	531	34%
Rams Road	648	726	1	815	816	0%	3	744	747	0%
Sedgefield	540	605	3	548	551	1%	223	364	587	38%
Selwyn	486	544	31	617	648	5%	32	459	491	7%
Shenrock Gardens	486	544	0	515	515	0%	84	496	580	15%
Sharon	459	514	72	361	433	17%	91	421	512	18%
Starmount	648	726	25	712	737	3%	67	833	900	7%
Statesville Road	648	726	333	522	855	39%	160	553	713	23%
Steele Creek	378	423	5	509	514	1%	195	475	670	29%
Thonshoro	729	816	0	690	690	0%	135	777	912	15%
Tryon Mills	486	544	309	164	473	65%	200	342	542	37%
Tuckaseegee	540	605	58	578	636	9%	57	510	567	10%
University Park	648	726	825	1	826	100%	735	132	867	85%
Villa Heights	810	907	902	83	985	92%	877	170	1047	83%
Westerly Hills	405	454	46	539	585	8%	144	332	476	30%
Wilmore	378	423	222	210	432	51%	153	250	403	38%
Windsor Park	648	726	1	748	749	0%	1	782	783	0%
Winterfield	648	726	48	688	736	7%	52	653	705	7%
Total	40,391	45,239	13,010	31,278	44,288		12,885	31,523	44,408	

Elementary Schools

835B

School	1970-71 Capacity +20%	1969-70				Court Consultant			
		B	W	T	AB	B	W	T	%
Albemarle Rd.	432	4	510	514	1%	162	338	500	32%
Allenbrook	540	61	432	513	12%	135	341	476	23%
Ashley Park	621	27	574	601	4%	175	426	601	29%
Bain	702	33	735	763	4%	25	706	731	3%
Barringer	486	843	16	859	98%	203	320	523	39%
Berryhill	836	93	639	737	13%	247	574	821	30%
Beverly Woods	540	68	684	752	9%	186	446	632	29%
Billingsville	594	596	0	596	100%	113	325	438	26%
Briarwood	540	6	620	686	1%	256	479	735	35%
Bruns Avenue	675	759	10	769	99%	252	540	792	32%
Chantilly	432	0	472	472	0%	142	333	475	30%
Clear Creek	324	48	229	277	17%	43	266	309	14%
Collinswood	621	111	443	554	20%	224	406	630	36%
Cornelius	455	181	235	416	44%	182	265	447	41%
Cotswold	540	23	537	560	4%	128	404	532	24%
Davidson	324	104	136	290	36%	102	174	276	32%
Marie Davis	756	662	0	662	100%	193	532	725	27%
Derita	783	150	678	828	18%	167	625	792	21%
Devonshire	643	0	903	903	0%	333	624	957	35%
Dilworth	648	90	317	407	22%	241	376	617	39%
Double Oaks	675	836	0	836	100%	234	496	730	32%
Druid Hills	486	472	3	475	99%	158	303	461	34%
Eastover	648	42	559	601	7%	157	445	602	26%
Elizabeth	405	314	125	439	72%	132	304	436	30%
Enderly Park	513	3	371	374	1%	150	270	420	36%

# DESEGREGATION PLAN for Charlotte-Mecklenburg Schools Elementary Schools

School	1970-71 Capacity				1969-70				Court Consultant Plan			
	Base	+20%	B	W	T	%B	B	W	T	%B	B	W
First Ward	702	786	805	0	805	100%	265	686	951	28%	265	686
Hickory Grove	459	514	70	533	603	12%	272	439	711	38%	272	439
Hidden Valley	643	726	0	1100	1100	0%	310	679	989	31%	310	679
Highland	297	333	69	305	374	18%	76	237	313	24%	76	237
Hoskins	297	333	13	212	225	6%	139	244	333	36%	139	244
Huntersville	675	756	145	531	676	21%	130	554	694	19%	130	554
Huntersville Farms	594	665	7	603	610	1%	205	414	610	33%	205	414
Idlewild	567	635	47	581	628	7%	190	410	600	32%	190	410
Irwin Avenue	373	423	292	0	292	100%	-	194	299	35%	-	194
May James	378	423	346	39	435	90%	139	280	419	33%	139	280
Lakeview	756	847	75	802	877	9%	207	496	703	29%	207	496
Lansdowne	648	726	711	0	711	100%	241	456	697	35%	241	456
Lincoln Heights	702	786	267	468	735	36%	259	523	782	33%	259	523
Long Creek	945	1058	36	302	880	10%	31	837	915	5%	31	837
Matthews	486	544	0	442	442	0%	106	236	342	31%	106	236
Merry Oaks	455	514	9	437	446	2%	116	440	562	21%	116	440
Midwood	675	756	0	718	718	0%	250	504	784	36%	250	504
Montclair	432	484	22	444	466	5%	150	445	595	25%	150	445
Myers Park	621	696	43	669	712	6%	177	502	759	23%	177	502
Nations Ford	594	665	74	438	512	14%	74	546	620	12%	74	546
Newell	540	605	69	517	586	12%	250	460	710	35%	250	460
Oakdale	594	665	5	616	621	1%	197	534	731	27%	197	534
Oakhurst	594	665	584	0	584	100%	226	594	820	28%	226	594
Oaklawn	540	605	80	512	592	14%	145	351	496	29%	145	351
Old Providence												

83  
68

## Elementary Schools

School	1970-71 Capacity Base		1969-70		XB					
	+20%		B	W		T	B	W	T	XB
Park Road	540	605	44	548	592	7%	148	359	507	29%
Paw Creek	594	665	27	609	636	4%	160	395	555	29%
Paw Creek Annex	270	302	30	271	301	10%	83	209	292	28%
Pineville	486	544	136	356	492	28%	123	379	502	25%
Pinewood	648	726	0	674	674	0%	283	697	980	29%
Plaza Road	459	514	80	340	420	19%	181	350	531	34%
Rama Road	648	726	1	815	816	0%	273	493	766	36%
Sedgefield	540	605	3	548	551	1%	223	364	587	38%
Selwyn	486	544	31	617	648	5%	150	309	459	33%
Shamrock Gardens	486	544	0	515	515	0%	174	511	685	25%
Sharon	459	514	72	361	433	17%	123	245	368	33%
Starmount	648	726	25	712	737	3%	217	441	658	33%
Statesville Road	648	726	333	522	855	39%	160	553	713	23%
Steele Creek	378	423	5	509	514	1%	195	475	670	29%
Thomasboro	729	816	0	690	690	0%	230	770	1000	23%
Tryon Hills	486	544	309	164	473	65%	107	262	369	29%
Tuckaseegee	540	605	58	578	636	9%	119	300	419	28%
University Park	648	726	825	1	826	100%	260	461	721	36%
Villa Heights	810	907	902	83	985	92%	265	668	933	28%
Westerly Hills	405	454	46	539	585	8%	144	332	476	30%
Wilmore	378	423	222	210	432	51%	153	250	403	38%
Windsor Park	648	726	1	748	749	0%	272	561	833	33%
Winterfield	648	726	48	688	736	7%	261	537	798	33%
Total	40,391	45,239	13,010	31,278	44,288		12,984	31,386	44,370	

## ELEMENTARY SCHOOLS TO BE PAIRED

Present School to Count	1 - 4		5 - 6	
	B	W	B	W
Albemarle Road	2	338	2	174
Allenbrook	0	341	0	156
Beverly Woods	1	446	1	249
Brianwood	4	477	2	220
Bruns Avenue	526	0	246	0
Marie Davis	431	59	193	26
Devonshire	0	624	0	276
Double Oaks	585	2	232	0
Druid Hills	310	2	158	1
First Ward	533	0	262	0
Nichols Grove	54	329	16	208
Hidden Valley	0	677	0	302
Huntingtowne Farms	0	414	0	195
Idlewild	0	410	0	163
Lansdowne	2	496	1	291
Lincoln Heights	456	0	239	0
Mary Oaks	0	236	0	119
Montclair	0	504	0	217
Oaklawn	405	0	193	0
Olds Providence	2	351	1	146
Park Road	0	300	0	160
Paw Creek	16	395	11	214
Paw Creek Annex	27	209	3	53
Pinewood	0	697	0	346
Rams Road	3	493	0	244
Selwyn	0	284	0	188
Sharon	0	245	0	117
Shermount	19	441	6	218
Tryon Hills	218	110	91	54
Tuckaseegee	49	300	19	171
University Park	550	0	260	0
Villa Heights	683	114	264	48
Windsor Park	0	515	1	233
Winterfield	0	494	0	199
Total	4,876	10,303	2,201	4,998

839a

Exhibit K.

Charlotte-Mecklenburg Schools  
ELEMENTARY SCHOOLS PAIRED

Grade 1-4

<u>Schools</u>	B	W	T	X
Ingtowne Farms				
on				
Mount	545	1100	1645	33
Road				
Wood	431	1056	1487	29
Wood				
shire	589	1103	1692	35
en Valley				
310	679	989	31	
ly Woods				
downe				
Providence	538	1293	1831	29
Marie Road				
Wild				
ry Oaks	458	984	1442	32
enbrook				
Creek				
Creek Annex				
aseegee	497	1245	1742	29
ory Grove				
272	439	711	38	
claira				
a Road	553	997	1550	36
yn				
door Park				
terfield	683	1407	2090	33
Total	4,876		15,179	
		10,303		

Grade 5-6

<u>Schools</u>	B	W	T	X
Bruns Avenue	252	540	792	32
Marie Davis	193	532	725	27
Double Oaks	234	496	730	32
Druid Hills	158	303	461	34
First Ward	265	606	951	28
Lincoln Heights	241	456	697	35
Oaklawn	226	594	820	28
Tryon Hills	107	262	369	29
University Park	260	461	721	36
Villa Heights	265	668	933	28
Total	2,201		7,199	
		4,990		

**Motion to Add Additional Parties Defendants  
and for Further Relief**

(Filed February 13, 1970)

On February 5, 1970, this Court entered an order directing the Charlotte-Mecklenburg Board of Education the individual members of the Board to proceed immediately to desegregate the public schools of Charlotte-Mecklenburg County. The Court directed that students be assigned to the various schools under plans presented adopted by the Board and a plan prepared by the Court consultant, Dr. John A. Finger. The order provided changing attendance zones of some schools, pairing some schools, and transportation of students living beyond "walking distance" from the schools to which assigned. The order further directed that the plan be implemented for elementary schools no later than April 1, 1970 and secondary schools no later than May 4, 1970. The School Board was specifically directed to begin immediately the steps to implement the plan.

Prior to the filing of the order on February 5, 1970, B. Harris, G. Don Roberson, A. Breece Breland, James Postell, William E. Rorie, Jr., Chalmers R. Carr, and Robert T. Wilson, on their behalf and on the behalf of the Concerned Parents Association, an unincorporated association, brought a proceeding in the Superior Court of Mecklenburg County, by their attorney, William H. Be to obstruct and prevent the School Board from implementing the orders directed by this Court. They obtained from the Superior Court of Mecklenburg County an ex parte order specifically enjoining the Superintendent from implementing the order of this Court directing the Board pay the expenses and fees of the Court consultant.

*Motion to Add Additional Parties Defendant and  
For Further Relief*

Following the order of February 5, 1970, Tom B. Harris, G. Don Roberson and others of the Concerned Parents Association have sought and are seeking by various means to obstruct and prevent implementation of the Court's orders. On February 12, 1970, they obtained from the Honorable William K. McLean, Judge Presiding in the Superior Court of Mecklenburg County, an order enjoining the School Board from spending any funds to purchase and operate school buses as directed by this Court.

The Honorable Robert H. Scott, Governor of the State of North Carolina, on February 11 and 12, 1970, objected to the Court's order and directed that no public funds, state or local, be expended for the purpose of implementing the order. The Honorable Dr. A. Craig Phillips, State Superintendent of Public Instruction, and the North Carolina State Board of Education, defendants herein, joined with the Governor in objecting to the Court's order and in directing that no public funds be used for the purpose of implementing the order.

On February 6, 1970, Honorable James Carson, a member of the Mecklenburg Delegation to the North Carolina House of Representatives, threatened to and is preparing to file similar proceedings in the State Court of North Carolina to obstruct and thwart the enforcement of the Court's orders.

These parties, along with divers others, are seeking to obstruct and prevent implementation of the Court's orders directing compliance by the school authorities with their constitutional obligations.

Despite the Court's directive to the School Board to proceed forthwith with all necessary steps to implement the order, the School Board, the State Superintendent and the



***Motion to Add Additional Parties Defendant and  
For Further Relief***

State Board of Education have failed to do so. Plaintiffs are advised that no efforts have been made to secure the necessary buses for transporting students as directed by the Court. Plaintiffs are also advised that such buses as may be necessary can be ordered and manufactured by the time directed by the Court for implementation of the plan. The failure of the School Board to act now in securing the necessary facilities for transportation may prevent desegregation of the schools in the time directed.

Plaintiffs are advised, believe and so allege that the activities and conduct of the defendants and each of them are pursuant to a design to thwart, impede and prevent desegregation of the public schools of Charlotte-Mecklenburg County and that the acts, activities and conduct of the defendants were calculated and intended to incite disobedience of the law and the overthrow of law and order and to coerce, intimidate, and compel school officials from performance of their constitutional responsibilities to desegregate the public schools of this system.

In order to insure full implementation of the Court's order within the time directed, plaintiffs, by their undersigned counsel, respectfully move the Court that the following parties be added as parties-defendant in this proceeding:

Honorable Robert H. Scott, Governor of the State of North Carolina;

Honorable A. C. Davis, Controller of the State Department of Public Instruction;

Honorable William K. McLean, Judge of the Superior Court of Mecklenburg County;

Tom B. Harris, G. Don Roberson, A. Breece Breland, James M. Postell, William E. Rorie, Jr., Chalmers R. Carr,

*Motion to Add Additional Parties Defendant and  
For Further Relief*

Robert T. Wilson, and the Concerned Parents Association,  
an unincorporated association in the Mecklenburg County;  
James Carson and William H. Booe.

Plaintiffs further pray the Court for a temporary and  
permanent injunction dissolving the injunctive orders of  
the Superior Court of Mecklenburg County entered in the  
proceeding of Tom B. Harris, et al. v. William C. Self, et  
al, 70 CVS 1097, and temporarily and permanently restrain  
any further proceedings in the action.

Plaintiffs further pray the Court for a temporary and  
permanent injunction against all defendants and all other  
parties having notice of the Court's order enjoining all  
parties in this action and all parties having notice of the  
orders of this Court from initiating or proceeding with  
any action in any State Court which has the purpose or  
effect of interfering with outstanding orders in this cause.

Plaintiffs further pray that the Court enter a temporary  
and permanent injunction restraining the Governor, the  
State Board of Education, the Controller of the State De-  
partment of Public Instruction, and the State Superinten-  
dent of Public Instruction from denying State funds or  
taking any other steps which would prevent or tend to  
prevent the implementation of the orders of this Court.

Plaintiffs further pray the Court for a temporary and  
permanent injunction directing the local Board of Educa-  
tion, its members individually, the Governor of the State,  
the State Board of Education, the State Superintendent of  
Public Instruction and all other persons having an au-  
thority or responsibility in the administration of the public  
schools in Charlotte-Mecklenburg County to proceed forth-  
with with all necessary steps to implement the orders of

*Motion to Add Additional Parties Defendant and  
For Further Relief*

this Court, including the provisions requiring transportation of students living more than "walking distance" from the schools to which they are assigned. Plaintiffs further pray the court for a temporary and permanent injunction restraining all defendants from taking any steps or action which would inhibit or prevent or tend to prevent compliance with the order of this Court.

Plaintiffs further pray the court that they be allowed their costs in this proceeding and reasonable counsel fees.

Plaintiffs further pray that the court direct the United States Marshal to personally serve a copy of the complaint, the amended complaint, and all orders, including the injunctive order prayed for herein, upon all defendants named herein.

Respectfully submitted,

CONRAD O. PEARSON

203½ East Chapel Hill Street  
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON &  
LANNING

216 West 10th Street  
Charlotte, North Carolina

JACK GREENBERG

JAMES M. NABRIT, III

NORMAN J. CHACHKIN

10 Columbus Circle  
New York, New York 10019

## **Notification and Request for Designation of Three-Judge Court**

**(Filed February 20, 1970)**

Several orders, starting April 23, 1969, have been entered by this court dealing with pending motions for desegregation of the Charlotte-Mecklenburg schools. The orders of December 1 and December 2, 1969, and February 5, 1970, are attached as Exhibits A, B and C to this motion.

The December 2, 1969 order appointed Dr. John A. Finger, Jr. to assist the court in the preparation of a plan for the desegregation of the schools. The February 5, 1970 order directs the schools to be desegregated according to various principles described or referred to in the order, including the requirement erroneously advertised as "involuntary bussing to achieve racial balance" which reads as follows:

"That transportation be offered on a uniform non-racial basis to all children whose attendance in any school is necessary to bring about the reduction of segregation, and who live farther from the school to which they are assigned than the Board determines to be walking distance."

A suit has been filed in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, No. 70-CVS-1097, entitled "TOM B. HARRIS, G. DON ROBERSON, et al., Plaintiffs, vs. WILLIAM C. SELF, Superintendent of Charlotte-Mecklenburg Schools, and CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, Defendants," and pursuant to allegations made in that action, Judge W. K. McLean, of the Superior Court of North Carolina, has entered an order temporarily restraining the School Board

*Notification and Request for Designation of  
Three-Judge Court*

and the Superintendent from paying Dr. Finger's bills until they have been approved by the Board of Education, and ordering that "the defendant Charlotte-Mecklenburg Board of Education and its agents, servants and employees be and they hereby are enjoined and restrained from expending any money from tax or other public funds for the purpose of purchasing or renting any motor vehicles, or operating or maintaining such, for the purpose of involuntarily transporting students in the Charlotte-Mecklenburg School System from one school to another and from one district to another district."

The complaint, the amended complaint and the two orders of Judge McLean dated February 12, 1970, are attached hereto as Exhibit D.

The Governor of North Carolina has made a public statement, Exhibit E, and has written a letter to the Department of Administration, Exhibit F.

The State Superintendent of Public Instruction, a party to this case, has made a public statement, Exhibit G.

Reports received from the School Board on February 12, 1970 and February 19, 1970 fail to mention Judge McLean's order, and fail to indicate that the Board have appealed or intend to appeal Judge McLean's order; and these reports also reveal no action by the Board or school staff addressed to the transportation problem. It appears that whether the action of Judge McLean and the other state officials do or do not directly conflict with this court's orders, the practical effect of those actions is or may be to delay or defeat compliance with the orders of this United States Court.

The plaintiffs have filed a motion to make additional parties, and have requested this court to enter orders dis-

*Notification and Request for Designation of  
Three-Judge Court*

solving Judge McLean's restraining orders and directing the Governor, the State Department of Instruction and the "Concerned Parents Association" and their attorneys and others not to interfere further with the compliance of the School Board with the orders of this court.

Some of the issues raised by this situation may involve the constitutionality of a state statute and others may be matters cognizable by a single judge.

It appearing to the court that pursuant to Title 28, U.S.C.A., this matter should be heard and determined by a district court of three judges.

Now, **THEREFORE**, it is respectfully requested that the Chief Judge of the United States Court of Appeals for the Fourth Circuit designate two other judges, at least one of whom shall be a circuit judge, to serve with the undersigned district judge as members of the court to hear and determine the action.

This the 19th day of February, 1970.

/s/ JAMES B. McMILLAN  
James B. McMillan  
United States District Judge

**Tender of Evidence *Nunc Pro Tunc* and Objections**  
(Filed February 24, 1970)

Defendants, the Charlotte-Mecklenburg Board of Education, and the individual members of the Board of Education, pursuant to the oral statements of the Court during the hearing on February 5, 1970, and pursuant to the order of the Court dated February 5, 1970, hereby tender, nunc pro tunc, evidence which would have been offered by the defendants for the consideration of the Court which was excluded by reason of the time limitations imposed by the Court or by formal rejection of the evidence hereby tendered by rulings of the Court. The evidence tendered is disclosed in the following affidavits:

1. Affidavit of Dr. William C. Self, Superintendent of the Charlotte-Mecklenburg public schools.

2. Affidavit of Mr. J. D. Morgan, Assistant Superintendent of business services of the Charlotte-Mecklenburg public schools.

3. Affidavit of Mr. Louis W. Alexander, Assistant Director of the Division of Transportation of the North Carolina Board of Education.

4. Affidavit of Mr. Herman J. House, Director of Traffic Engineering of the City of Charlotte, North Carolina.

5. Affidavit of Mr. Robert L. Deaton, Assistant General Manager of Charlotte City Coach Lines, Inc.

In addition to the foregoing, the defendants tender pertinent portions of the report and recommendations of the Court appointed consultant, Dr. John A. Finger, which report and recommendations do not appear of record at this

*Tender of Evidence Nunc Pro Tunc and Objections*

Accordingly, these defendants deem it appropriate to tender same as a portion of the record in this cause. The defendants renew their objection to the refusal of the Court to permit full evidentiary hearings with respect to the two plans presented to the Court and offered into evidence on February 2, 1970, and further object to the refusal of the Court to consider all evidence prior to entry into its order on February 5, 1970.

Respectfully submitted this 24th day of February, 1970.

/s/ WILLIAM J. WAGGONER  
WILLIAM J. WAGGONER  
WEINSTEIN, WAGGONER, STURGES,  
ODOM AND BIGGER  
1100 Barringer Office Tower  
Charlotte, North Carolina

/s/ BENJ. S. HORACK  
BENJ. S. HORACK  
ERVIN, HORACK AND McCARTHA  
806 East Trade Street  
Charlotte, North Carolina

/s/ BROCK BARKLEY  
BROCK BARKLEY  
Law Building  
Charlotte, North Carolina



**Affidavit of William C. Self, Superintendent of  
Charlotte-Mecklenburg Public Schools**

(Referred to in Foregoing Tender of Evidence)

William C. Self, being duly sworn, deposes and says:

1. I am the Superintendent of the Charlotte-Mecklenburg public schools and am responsible for the administration and operation of the school system.

2. At the hearing conducted on February 5, 1970, I would have testified as follows in the event the Court had permitted more time or had permitted answers to certain questions posed by the School Board attorney. Such testimony would have been as follows.

3. The administrative staff explored the possibility of pairing one or more of the predominantly black schools with neighboring predominantly white schools. This alternative was rejected since such a move would have caused the paired schools to become predominantly black in a short period of time. Pairing of a predominantly black school with an adjoining desegregated school would produce a predominantly black school body in both schools. Many schools in the system have quickly changed from white to black. Since 1954-55 school term, eleven (11) schools have experienced such a turnover. Schools which have changed from all white to predominantly black during this period are Barringer, Bethune, Elizabeth, First Ward, Lakeview, Seversville, Zeb Vance, Villa Heights, Wesley Heights, Hawthorne and Piedmont. These schools or their successors experienced a more rapid shift to predominantly black once their racial ratio reached approximately 35 to 40 per cent black. Any pairing arrangement between contiguous schools would exceed this percentage.

*Affidavit of William C. Self, Superintendent of  
Charlotte-Mecklenburg Public Schools*

4. The Board of Education plan for further desegregation represents utilization of racially gerrymandered lines to the greatest extent possible in seeking maximum racial balance and at the same time preserve a bare semblance of the neighborhood school concept.

5. Further desegregation of the Charlotte-Mecklenburg public schools should take into account the educational advantages to be gained. As an educator, I cannot justify an abrupt mid-year desegregation move on educational grounds for the amount of disruption, inconvenience, and hardship to the educational processes would nullify such advantages for the vast majority of black and white students. A better procedure would be to schedule the moves near the end of the regular school term. This would allow the school administration to bring one school year to a close and to plan the new operation as if it were the beginning of another school term. Such a move would allow for general orientation of students and teachers to their new surroundings and would also have the effect of relieving uncertainty about next year's school assignment. Such change should not take place earlier than the last two weeks of school which is ample time to complete orientation.

6. As a professional educator, I am quite aware of the fact that opinions of children, parents and the community with reference to an educational program often offer positive or negative contributions to such programs. Their opinions may so affect the educational system that the benefits to be derived from a particular program will be submerged and thereby impaired to the point that the program offers a negative value because of the absence of

*Affidavit of William C. Self, Superintendent of  
Charlotte-Mecklenburg Public Schools*

popular support or acceptance. This would apply with equal force to the opinions of parents, students and the community to further desegregation or to the time for implementation thereof. In any event, substantial efforts will be made to gain community acceptance of any action which must be taken.

This the 24th day of February, 1970.

William C. Self

(Sworn to February 24, 1970)

**Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools**

(Referred to in Foregoing Tender of Evidence)

J. D. MORGAN, being duly sworn, deposes and says that:

1. I am Assistant Superintendent for Business Services of the Charlotte-Mecklenburg Public Schools, and am responsible for the administration and operation of the school bus transportation system of the Charlotte-Mecklenburg Schools.

2. All statistical data and information attached hereto or referred to herein were prepared by me or under my direct control and supervision, are incorporated as a part of this Affidavit and correctly set forth the facts and estimates to which they refer.

3. I am thoroughly familiar with the bus transportation system for the Charlotte-Mecklenburg Schools as it is presently being operated and with the Board Plan and the Finger Plan for desegregation which were in evidence at the February 5, 1970 hearing and referred to in the Court's Order of the same date. I have made a careful, detailed analysis of both of those Plans and alternate proposals, particularly with reference to their effect upon transportation of students, bus routes and schedules, transportation costs, availability of facilities and related matters.

4. Under North Carolina law and applicable regulations as they apply to the Charlotte-Mecklenburg School System any school child is entitled to free transportation to and from the school he attends if he resides more than 1½ miles

4

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

from his school and (a) if he resides in the part of Mecklenburg County located outside the Charlotte city limits as they existed immediately prior to the 1957 annexation or (b) if he resides in the City and attends a school located within that portion of the County. Based on December 1, 1969, records, 22,545 children were being transported pursuant to the State law by a fleet of 267 school buses. In addition, the System is presently furnishing with local funds 13 buses to transport the 738 black students who accepted assignments to outlying white schools when certain inner city schools were closed last year. In the aggregate, the Charlotte-Mecklenburg Schools has a fleet of 280 buses which now transport daily 23,283 students.

5. The Board Plan proposed to provide transportation for those children who are eligible under the present State law. The Finger Plan proposes to provide transportation for all students not within walking distance of their school, regardless of the location of their residence or the schools they attend. The Board has accepted the State standard for walking distance as being less than 1½ miles. Either of the proposed plans for desegregation will require buses and expenditures in *addition* to the 280 buses presently being used to transport 23,283 students. A summary of pertinent data, including the *additional* children, buses and costs which would be required under each desegregation proposal is as follows:

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

	<i>Board Plan</i>	<i>Finger Plan</i>
No. of Children Bussed	4,935	23,384
No. of Buses	104	526
No. of Trips Daily	104	526
Aver. No. Trips Daily	1	1
Aver. No. Pupils Per Trip	47	44
Aver. No. Miles Daily	30	30
Total Mileage Daily	3,120	15,780
Aver. Per Pupil Cost Annually	\$ 29.29	\$ 31.26
Cost of Buses	\$589,889.56	\$2,947,048.94
Cost of Parking Lots, Etc.	56,200.00	337,400.00
Cost of Operating	175,627.92	888,271.98
Cost of Personnel	42,960.00	177,120.00
Total Cost	<u>\$864,677.48</u>	<u>\$4,349,840.92</u>

From the foregoing it will be observed that, compared with existing transportation, the Finger Plan adopted by the Court will double the number of children bussed (an increase from 23,283 to a total of 46,667) and almost triple the number of buses required (an increase from 280 to 806). Supporting details for this summary are shown on attached Schedules Nos. 1 and 2. In each instance the additional requirements tabulated above are based upon the System's experience regarding the number of students who actually use such transportation—rather than the much larger number who are eligible therefor.

6. For the most part, the school buses are driven by high school students recruited by the high school principals and are paid the \$1.60 per hour minimum wage prescribed by

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

State law for student drivers. Student drivers are presently in very short supply as are also the extra substitute relief drivers which we must have in case of the illness or absence of regular drivers. A student driver parks his bus at his home overnight. In order to minimize unnecessary mileage, wherever possible a student driver is assigned a bus route that begins near his home. On the morning of each school day he starts his student pick ups near his home and continues on his route until he deposits the children at the school served by the route. All buses, by State law, must be routed within a mile of a student's home. In most instances, it is necessary for a bus to be routed off main streets and roads to pick up points less than a mile for two reasons: First, to insure safety in loading and unloading students and secondly, to provide for better traffic safety and flow for the general public. If a bus route is not too long, the driver will be assigned a second route or trip. This trip begins after unloading at the first school so that he can pick up a second load of children for another school. At present, the daily trips per bus providing State transportation average 1.8, reflecting the double use of about four fifths of the buses. If the route distance is too long or requires a long time because of congested or city traffic, a bus may be able to make only one trip. At the end of his morning run the student driver will park his bus and proceed to his high school. After school, the process is repeated in reverse. At present each bus averages about 40.8 miles per day, which includes both the morning and afternoons runs. In order to complete their runs most student drivers miss one instruction period.

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

7. Bus routes are arranged to make maximum use of the capacity of the buses. However, in spite of our best efforts, sometimes the children on a route destined for a particular school are insufficient in number to utilize the full capacity of a bus. State regulations allow the rated seating capacity of a bus to be exceeded by not more than 25%. When the full capacity of a bus is utilized on a particular route, normally the children on the morning run who cannot get a seat are those who board the bus last. This is normally within a short distance of their school. On the afternoon run at the close of school the same is true in reverse. For the sake of the safety of our children, we try to minimize the need for standing in the aisles—particularly by elementary children. The risk of student injury is substantially increased when the children are required to stand up for long periods or in heavily congested traffic.

8. Due to senior high schedules, length of time required on some routes and point of bus route termination, we are unable to use student drivers. Therefore, we employ some adult drivers who are paid the prescribed minimum wage of \$1.95 per hour. Even greater difficulty is experienced in finding and retaining competent and reliable adult drivers. Because the system is responsible for the welfare of its students (particularly young children and girl students) great care must be exercised in screening candidates and investigating their moral character and past records as well as their driving abilities. Since adult employment is not provided on a full workday basis (but only for the few hours in the morning and afternoon) and because of the low pay, reliable adult drivers are hard to find and keep.



*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

Unlike student drivers who park their buses at school, substantial additional bus mileage is incurred when at the end of a morning or afternoon run adult drivers must return empty buses to the central bus depot until they are picked up for the next day.

9. Both student and adult drivers must obtain a special school bus driver's license. At least five days are required to obtain such a license and to train the prospective drivers for the operation of their buses, instruct them in safety and operating rules and regulations and familiarize them with their bus schedules and routes.

10. Safe, convenient parking areas must be provided for the loading and unloading of bussed children and the parking of these buses during school hours in order that they may be serviced with gas, oil and minor repairs. The Charlotte-Mecklenburg System is already hard pressed to provide such areas. School buses load and unload through a door at the right front of each bus. Safety of children is the key consideration. Parking areas must be arranged so children alighting from or boarding a school bus can do so without being endangered by the movement of other buses or traffic. Attached Schedule No. 3 explains the pertinent considerations, layouts, traffic flow, areas and other matters involved in providing these necessary bus parking areas. Parked school buses are not permitted to block dedicated or public streets and rights of way. Safe ingress and egress must be provided for buses entering and leaving public streets and roads. Bus parking areas should provide sufficient space to allow maintenance and service trucks

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

to gas and oil the parked buses during school hours. Depending upon the length of the bus route, some buses require servicing every day and some every other day. Because of terrain, limited school sites and similar factors, some schools cannot accommodate bus parking areas. In such situations, parking areas must be purchased or leased or the buses must be taken back to a central bus depot until needed for the next run. Playgrounds cannot be used for bus parking areas without curtailing the physical education program and without likely damage to the parked buses. Attached Schedule No. 1 shows school by school the students to be transported and the buses and parking areas required to provide the additional State law transportation prescribed under the Board Plan and the attached Schedule No. 2 shows the same information under the Finger Plan. In each instance, these schedules show whether the required parking area is presently non existent (N), unsatisfactory (U) or satisfactory (S). Attached Schedule No. 3 documents the costs involved in providing bus parking. Apart from the cost of any needed land acquisitions, a \$56,200 capital outlay will be required to provide *additional* bus parking under the Board Plan and \$337,400 *additional* under the Finger Plan for those schools where bus parking areas are available.

11. Among the 23,384 *additional* students that must be transported under the Finger Plan will be 5,150 white 5th and 6th graders bussed into, and 5,150 black 1st, 2nd, 3rd and 4th graders bussed out of, the center city to eliminate the 9 predominantly black elementary schools which remain under the Board Plan. Also included are the students

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

which must be bussed under the Finger Plan to eliminate Piedmont Junior High as a predominantly black school. A careful evaluation has been made of the bus trips and routes which would be required to achieve these objectives of the Finger Plan or any alternate plan which has as its purpose the elimination of these ten predominately black inner city schools. This evaluation reveals that bus trips to and from the center city schools will average 15 miles one way (30 miles round trip) and many of them will require a travel time of  $1\frac{1}{4}$  hours one way ( $2\frac{1}{2}$  hours round trip). A child involved in  $2\frac{1}{2}$  hours daily bus travel will spend 452.5 hours in a school bus during his 181 day school year. Prolonged travel is not only costly in terms of dollars and cents, but in terms of the time expended by children, parents, teachers, principals and other school administrative personnel, which will most definitely affect the instructional programs and the on-going operation of the school system. The transportation of students into and out of the center city will necessarily involve bus routes through the heavily congested parts of the inner city and perimeter areas. From a safety standpoint this is undesirable. Under North Carolina law, traffic going both ways must come to a halt when a school bus stops. The stop-and-go schedules of school buses transporting 23,384 *additional* children will seriously clog the already over burdened city and perimeter thoroughfares.

12. The average 15 mile trip (30 miles per day) into and out of the center city to eliminate these predominantly black schools under the Finger Plan will preclude the use of student drivers, because the trips will be too long and too time-consuming to permit them to operate the buses and main-

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

tain their own class schedules at the high schools they attend. As a practical matter, adult drivers will have to be employed to do the job. The estimated operating costs documented in attached Schedules Nos. 1 and 2 are based entirely on the use of student drivers. As indicated above, reliable and competent adult drivers are already in short supply and involve much more empty bus mileage than do student drivers. Even if adult drivers could be found, it is estimated that the operating costs of providing the transportation required by the Finger Plan would exceed the amounts shown on those Schedules by 40% to 60%, mainly because of the increased salaries and the additional mileage that would be required.

13. School buses for the Charlotte-Mecklenburg Schools (as well as those for the other North Carolina school systems) are procured through the State Board of Education's Division of Transportation. Under State law, when an additional bus is purchased it must be paid for entirely with local funds. At present the average cost of a school bus is \$5,387.64, but it is anticipated that there soon will be a significant increase in this figure. Assuming student drivers, the maximum life of a school bus is about 12 to 15 years. If adult drivers are used the life of a bus is much less because of the increased mileage. The wear and tear on a school bus is greater than that of most buses because of the roads they travel, the stop-and-go driving involved in student pickup routes and the hard usage occasioned by the young children they transport. The State pays for replacement buses. When school buses are retired they are either junked or sold at public auction. There is very little,

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

if any, use left in a bus that has been retired. The repair and upkeep of such buses is prohibitive and usually they are unfit and unsafe for the transportation of school children.

14. Contingent upon availability of funds, at the present time only 75 additional new buses could be procured from the State and of these, 27 are required as past-due replacements for our existing fleet. If the State has other new buses on hand they have been allocated to some or all of the 99 other North Carolina County school systems which also need overdue replacements. March 27, 1970, is the earliest date that State contracts can be let for the purchase of additional buses. As stated above, 104 additional buses will be required under the Board Plan and 526 under the Finger Plan. Spring and summer is a rush time for bus manufacturers because this is when schools all over the country customarily place their orders for new buses. Under normal conditions it takes about 120 days before the first bus chassis is delivered to the body fabricator and about 45 days thereafter before the completed bus is delivered and ready for use. With the exception of the 75 buses referred to above, the first of the buses needed to provide the transportation required by either of the Plans would not be delivered to our system until the Fall of 1970 and it is expected that an order placed to satisfy the requirements of the Finger Plan would not be completed until the Spring of 1971. In the meantime, we will have a continuing need for replacements.

15. Some suggestion has been made that, in order to meet the proposed demands of the Finger Plan, the

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

Charlotte-Mecklenburg Schools could use some or all of the several hundred retired obsolete buses that are stored in various areas of the State pending the arrival of new buses. These old buses are either junk or near junk. On average, they have been used 12 to 15 years and are unserviceable for school purposes or they would not have been declared obsolete and scheduled for replacement in the first place. With coaxing and care some of them can be made to run, but they are totally unsuitable for use to transport school children in a system as large and as complex as ours. Their performance would be completely unreliable—even with maximum attention to repairs and maintenance. They would not hold up under the strain and requirements of the long routes and urban congestion involved in our system. Quite apart from the mechanical unreliability of these resurrected replacements, many of them are unsafe. We cannot afford to put our children on buses which are discards and whose reliability and safety are suspect.

16. We have investigated the possibility of working out contract arrangements with Charlotte's public transit system, Charlotte City Coach Lines, Inc., to provide some of the transportation that will be required under the desegregation proposals. City Coach Lines is willing to help the schools in any way it can, but is able to provide only 5 buses to assist any desegregation effort. These buses can carry an average of 65 children each—making a total of 325. This total could be increased to some degree if the schools went on staggered schedules to make greater use of the available equipment.

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

17. It is observed that 280 buses are now being used to transport 23,283 school children but that 526 more buses will be required for the *additional* 23,384 pupils who must be transported under the Finger Plan. There are very obvious reasons why this is so. The existing 280 bus fleet now transports the 28,283 predominantly County children on comparatively short runs, allowing many of the buses to serve more than one school by making more than one trip—the buses now averaging about 1.8 trips daily. By way of contrast, the Finger Plan requires massive cross-bussing and satellite bussing to and from the center city and outlying areas. Under the Finger Plan the average one-way run will be about 15 miles (much of it in congested city and suburban traffic) and some of the routes will involve travel time of approximately  $1\frac{1}{4}$  hours—too far and too long to permit the multiple use of buses to serve several schools as is frequently possible under our existing setup. The initial capital expenditure for buses required to implement the Finger Plan could be reduced by 35% to 50% if schedules for the opening and closing of the various schools were staggered. However, as previously noted, this would necessarily require the use of adult drivers—which would increase operational costs by 40% to 60%, due mainly to increased drivers' salaries and additional mileage. The extensive staggered school schedules that would be necessary to minimize the number of buses required under the Finger Plan give rise to many practical problems—causing inconvenience and hardship for children and parents and disruption of school activities. It is anticipated that under any program of staggered school openings and closings (that significantly reduce bus re-



*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

quirements) some children would have to leave home as early as 6:40 a.m., and others would not get back home until 5:00 p.m.

18. As already observed, the Charlotte-Mecklenburg School System is now operating a complex and costly transportation system as required by State law for about 27% of its total 84,000 students. Under the Court's Finger Plan almost 55% of these students will be bussed daily. This will serve only to compound drastically the burden, expense, hardship, inconvenience, hazards, expenditure of unproductive time and the added administrative problems occasioned by any bussing program. The extra costs of the Finger Plan will make serious inroads upon our ability to finance and maintain quality facilities and instructional programs for our youngsters.

19. The implementation of the Finger Plan presupposes not only the availability of the buses, but also the availability of the funds (either locally or from the State) with which to finance the capital outlay and operational costs occasioned by the *additional* transportation necessary to effect the racial balances that the Plan seeks to achieve. We have no indication that these funds will be forthcoming—either locally or from the State.

20. Neither the Finger Plan nor any other plan which has as its objective the elimination of the predominately black 9 elementary and 1 junior high schools in the center city can be implemented without a massive bussing program. It is unrealistic to assume that any such plan



866a

*Affidavit of J. D. Morgan, Assistant Superintendent for  
Business Services of the Charlotte-Mecklenburg  
Public Schools*

can be put into effect during this school year. We do not have the buses and we cannot get them. Even if we had the buses, we have no reasonable prospect of recruiting and training the student and adult drivers to operate them. Even if the buses and drivers were available, we have no prospects of obtaining the necessary financing.

/s/ J. D. MORGAN  
J. D. Morgan

(Sworn to July 13, 1970.)

BOARD OF EDUCATION FILE  
CHARLOTTE-MECKLENBURG SCHOOLS

1. Cost of Buses	\$ 589,889.55
2. Cost of Parking Area	56,200.00
3. Cost of Operation	175,627.92
4. Personnel	42,900.70
5. Total Cost First Year	\$ 864,677.46

# BOARD OF EDUCATION PLAN SENIOR HIGH SCHOOL

## 1. Clerical Outlay

A. 50 Buses @ \$5,237.64	\$161,629.20
B. Equipment	750.00
C. Service Vehicles	
Service Trucks - 2	5,000.00
Gasoline Delivery Trucks - 1	5,000.00

## 2. Cost Operation

	Daily	Annual
1. Drivers' Salaries	\$153.90	\$ 27,855.30
2A Gas, oil, grease, anti-freeze	27.90	5,045.30
3 Mechanics' Salaries	39.70	7,604.70
4A Repair Parts	7.20	1,303.20
4B Tires and Tubes	-	-
TOTAL	<u>\$239.40</u>	<u>\$ 41,702.40</u>
Depreciation @ .055 per mile	<u>49.50</u>	<u>8,359.50</u>
GRAND TOTAL	<u>\$279.50</u>	<u>\$ 50,661.90</u>

## 3. Personnel

A. Supervisory - 1	\$ 8,200.00
B. Clerical - 1	6,120.00

BOARD OF EDUCATION PLAN  
JUNIOR HIGH SCHOOL

1. Capital Outlay

A. 53 Buses @ \$5,167.64	\$177,752.12
C. Equipment	625.00
D. Service Vehicles	
Service Trucks - 1	2,000.00
E. Gasoline Delivery Trucks - 1	5,000.00

2. Cost of Operation

	Daily	Annual
1. Drivers' Salaries	\$165.25	\$ 30,641.45
2A. Gas, oil, grease, anti-freeze	30.65	5,554.65
3. Mechanics Salaries	42.57	7,705.17
4A. Repair Parts	7.52	1,433.52
4B. Tires and Tubes	-	-
<b>TOTAL</b>	<b>\$253.44</b>	<b>\$45,872.64</b>
Depreciation @ .055 per mile	\$4.45	\$8,655.45
<b>GRAND TOTAL</b>	<b>\$307.89</b>	<b>\$55,728.09</b>

3. Personnel

A. Supervisory - 1	\$ 8,000.00
B. Clerical - 1	6,120.00

BOARD OF EDUCATION PLAN  
ELEMENTARY SCHOOL

## 1. Capital Outlay

A. 41 Buses @ \$5,357.64	\$ 220,363.24
B. Equipment	500.00
C. Service Vehicles	
Service Trucks - 2	5,000.00
Gasoline Delivery Trucks - 1	5,000.00

## 2. Cost of Operation

	Daily	Annual
1. Drivers' Salaries	\$210.33	\$ 26,063.73
2A Gas, oil, grease, and anti-freeze	35.13	6,901.53
3 Mechanics' Salaries	52.69	9,573.09
4A Repair Parts	9.64	1,781.64
4B Tires and Tubes	-	-
Total	\$314.83	\$ 56,993.28
6. Depreciation @ .055 per mile	67.65	12,244.65
GRAND TOTAL	\$382.53	\$ 69,247.93

## 3. Personnel

A. Supervisory - 1	\$ 6,200.00
B. Clerical - 1	6,120.00

ADDITIONAL TRANSPORTATION REQUIRED  
BOARD OF EDUCATION PLAN OF DESEGREGATION  
SENIOR HIGH SCHOOLS

871a

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	COST
Mecklenburg	273	7	S	
ger	78	2	N	\$ 3,400.
ing			N	
pendence			S	
s Park			N	
h Mecklenburg			S	
pic			S	
nd Ward				
h Mecklenburg	600	15	U	\$ 6,000.
Charlotte	53	2	U	\$ 800.
Mecklenburg	198	5	U	\$ 2,000.
e in Attendance Areas		10		

Total	1202	41	\$12,200.
Less reduction to prevent duplicate use of school buses		11	
Net number of buses		30	

ADDITIONAL TRANSPORTATION REPORT  
BOARD OF EDUCATION PLAN OF RESEGREGATION

672a

JUNIOR HIGH SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING	
Iberia Road			S	
Alexander			S	
Bochrane	534	10	U	\$
<del>Monmouth</del> Randolph	59	1	S	
Coulwood	220	4	S	
Eastway			U	
Alexander Graham			U	
Bawthorne			N	
Irwin Avenue				
McClintock			S	
Northwest			N	
Piedmont			N	
Quail Hollow			S	
Ransom			S	
Seegerfield			N	
Smith	400	8	S	
Spaurh			N	
Williams			N	
Wilson	164	3	U	\$
York Road			N	

Change in Attendance Areas

12

Total

1388

38

Less reduction to prevent  
duplicate use of school buses

5

Net number of buses

33

ADDITIONAL TRANSPORTATION REQUIRED  
BOARD OF EDUCATION PLAN OF DESegregation

ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	Bus Parking	COST
Charles Road			S	
Brook			S	
Way Park			N	
			U	
Finger	197	4	N	\$4,200.
Whill	274	5	S	
Woods			D	
Wingsville	259	5	N	\$4,600.
Wood			U	
Wes Avenue			N	
Willy			N	
Wear Creek			U	
Wilmington	233	5	S	
Winnellus			N	
Worold	195	4	N	\$4,200.
Widson			N	
Writa				
Wenshire				
Wuorth				
Wible Oaks				
Wuid Hills				
Wostover	62	1	N	\$3,600.
Wimbeth				
Welderly Park				
Went Ward				



874

ADDITIONAL TRANSPORTATION REQUIRED  
BOARD OF EDUCATION PLAN OF DESIGNATION

ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	Bus Parking	
Hidden Valley				
Highland				
Hoskins				
Huntersville				
Huntingtowne Farms				
Idlewild				
Amay James				
Lakeview	47	1	N	\$3.00
Lansdowne				
Lincoln Heights				
Long Creek				
Marie Davis				
Matthews				
Merry Oaks				
Midwood				
Montclair	35	1	U	\$ 40
North Park				
Nations Ford	153	3	S	
Norrell				
Oakdale				
Oakhurst	105	2	N	\$1.00
Oakton				
Olde Providence				
Park Road				
Pine Creek				
Pine Hills				
Pine Ridge				

ADDITIONAL TRANSPORTATION REQUIRED  
BOARD OF EDUCATION PLAN OF DESEGREGATION  
ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	Bus Parking	COST
Road				
Jefffield				
ryn				
erock Gardens				
ron				
armount				
atesville Road			S	
eele Creek			N	\$5,400.
omasboro	353	7		
von Hills			N	\$3,000.
ckaseegee	30	1		
iversity Park				
illa Heights			N	\$3,800.
esterly Hills	156	3		
ilcore				
indsor Park			N	\$3,800.
interfield	140	3		
Pinewood				\$38,600
Total	2345	48		

Less reduction to prevent  
duplicate use of school buses

7

Net number of buses

41

876a

DR. JOHN FINGER PLAN  
CHARLOTTE-MECKLENBURG SCHOOLS

1. Cost of Buses	\$ 2,547,048.94
2. Cost of Parking Area	337,400.00
3. Cost Operation	868,271.96
4. Personnel	177,120.00
5. Total Cost First Year	\$ 4,349,840.92

LA. STATE POLICE  
SALES TAX REPORT

## 1. Capital Outlay

A. New House 0 (5537.64 Ea.)	6511.25-00
B. Equipment	2,000.00
C. Service Vehicles	10,000.00
5 Service Trucks	10,000.00
2 Carolina Delivery Trucks	2,000.00

## 2. Cost Operations

	Entry	Amount
Drivers Salaries	6511.25	\$40,000.00
Gasoline, oil, grease, anti-freeze	200.00	25,000.00
Mechanics Salaries	200.00	20,000.00
Repair Parts	27.35	1,900.00
Tires & Tubes	---	---
Phone	600.00	600.00
Mileage Cost	250.00	2,000.00
GRAND TOTAL	65,000.00	\$150,000.00

## 3. Personnel

A. Supervisor - 1	\$ 30,000.00
B. Clerk - 1	6,000.00
C. Tax Dispatcher - 1	7,000.00

12. JOINT FINTEA TRAIL  
JUNIOR HIGH SCHOOLS

1. A. 119 buses O 65337.61 Ea.	\$341,127.26
B. Insurance	2,975.00
C. Service Vehicles	
5 Service Trucks	12,500.00
2 Gasoline Delivery Trucks	20,000.00

## 2. Cost Operation

	Daily	Annual
Delivery Salaries	\$310.17	\$110,195.67
Gas, oil, grease, anti-freeze	110.67	20,032.17
Mechanics Salaries	155.11	27,765.31
Repair Parts	28.53	5,169.35
Tires & Lubric		
<b>SUBTOTAL</b>	<u>\$913.62</u>	<u>\$165,159.52</u>
Mileage Costs	<u>296.35</u>	<u>35,539.35</u>
<b>GRAND TOTALS</b>	<b>\$1,110.27</b>	<b>\$200,558.67</b>

## 3. Personnel

		Annual
A. Supervisor - 1	5	\$ 32,760.00
B. Clerk(s) - 2		12,810.00
C. Bus Dispatcher - 2		7,800.00

## DR. JOHN F. LEWIS PLAN

## ELEMENTARY SCHOOLS

## Capital Outlay

2,500 Boxes of \$550.00 Ea.	\$1,375,000.00
Equipment	1,375,000.00
Service Vehicles	
12 Service Trucks	3,000,000.00
5 Gasoline Delivery Trucks	25,000,000.00

## Operating Expenses

	Daily	Annual
Teachers Salaries	\$2,500,000	\$2,500,000
Supplies, Office, Printing, Anti-Books	250,000	250,000
Utilities Salaries	500,000	500,000
Office Funds	100,000	100,000
Books & Sales		
Books	\$2,500,000	\$2,500,000
Books	100,000	100,000
Books	\$2,500,000	\$2,500,000

## Personnel

	Annual
Superintendent - 1	\$2,500,000
Principal - 1	250,000
Assistant Superintendent - 1	250,000
Assistant Bus Supervisor - 2	100,000

ADDITIONAL TRANSPORTATION REQUIRED  
DR. JOHN FINGER'S PLAN OF REORGANIZATION

880

SENIOR HIGH SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
East Mecklenburg	323	8	S	
Garinger	862	22	N	11,400
Harding	420	11	U	7,100
Independence	270	7	S	
Myers Park	776	20	N	10,600
North Mecklenburg			S	
Olympic			S	
Second Ward				
South Mecklenburg	485	12	U	7,100
West Charlotte	610	20	U	10,600
West Mecklenburg	157	4	U	8,200
Changes in Attendance Areas		10		
TOTALS- High School	4,105	111		51,200
TOTALS-Junior High	6,129	119		72,000
TOTALS-Elementary	13,146	203		218,200
GRAND TOTALS	23,380	526		341,400

Estimated daily mileage is from 15 to 50 miles per bus. It is estimated that the average daily miles would be approximately 30 miles per bus.

Estimated travel averages 12 miles per hour. This would require an estimated average travel time of 2-1/2 hours per day per bus.

# JUNIOR HIGH SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
Carle Road	267	5	S	
ander			S	
ane	270	5	U	4,600
andolph	60	2	S	
ard	156	3	S	
ay	613	12	U	7,400
ander Graham	733	14	N	8,200
borne	468	9	N	6,200
ance				
ntrock	325	6	U	5,000
hvest	747	14	H	8,200
rent	424	8	N	5,800
l Hollow	183	4	U	4,200
son			S	
efield	252	5	N	4,600
st	369	7	S	
ash	260	6	N	5,000
lence	639	12	H	7,400
son			S	
rk Road	365	7	N	5,400
TOTALS	6,129	119		72,000



ADDITIONAL TRANSPORTATION DATA  
DR. J. M. FISHER'S PLAN OF RESEGREGATION

882a

ELEMENTARY SCHOOLS				
SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS ZONES AREA	
Albemarle Road	176	4	U	4,
Allenbrook	156	3	S	
Ashley Park	197	4	N	4,
Bain			S	
Barringer	292	6	N	5,
Berryhill			S	
Beverly Woods	270	5	S	
Billingsville	259	5	N	4,
Briarwood	222	5	U	4,
Bruns Avenue	528	12	N	7,
Chantilly			S	
Clear Creek			S	
Collinswood	168	3		
Cornelius			S	
Cotswold	195	4	N	4,
Davidson			S	
Derita			S	
Devonshire	276	6	S	
Milworth	25	1	U	3,
Double Oaks	587	12	N	7,
Druid Hills	312	6	N	5,
Eastover	237	5	N	4,
Elizabeth	95	2	E	3,
Enders Park			S	
First Ward	503	12	N	7,
Fishery Grove			S	

## ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
Valley	342	7	N	5,400
Land			S	
ins			S	
ersville			S	
Signature Falls	229	5	N	4,600
Wild	173	4	U	4,200
James			S	
erick			S	
Moore	354	7	N	5,400
John Heights	456	9	N	6,200
Creek			S	
De Davis	473	10	N	6,600
Moore			S	
ry Lake	149	3	H	3,800
Wood	4	1	H	3,000
Belair	252	5	H	4,600
ers Park	183	4	N	4,200
Moore Ford			E	
ell			S	
Male			S	
Harst			S	
Mon	405	9	N	6,200
le Providence	175	4	U	4,200
St. Paul	265	5	H	4,800
Creek	272	5	U	4,600
ville			S	
St. Paul			S	
Wood	405	9	H	5,200

ADDITIONAL INFORMATION RECEIVED  
DR. JOHN FENNER'S PLAN OF DESEGREGATION

ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA
Rena Road	277	6	N
Sedgefield	198	4	N
Selwyn	391	8	N
Shamrock Gardens	213	4	N
Sharon	250	5	N
Starmount	256	6	N
Statesville Road			S
Steele Creek			S
Thomsonboro	258	5	N
Tryon Hills	95	2	N
Tuckaseegee	245	6	N
University Park	502	12	N
Ville Heights	726	15	N
Westerly Hills	137	3	N
Wilmore	55	1	N
Windsor Park	304	7	N
Winterfield	355	7	N
5th & 6th grade students CIRCLER SCHOOLS	140	3	
Changes in Attendance Areas		17	
TOTALS	13,349	293	

865a

# TYPICAL COSTS FOR SCHOOL BUS PARKING LOT

One Bus .....	\$3,000.00
Each Additional Bus .....	400.00

## BREAK DOWN OF COSTS

ENTRANCE DRIVEWAY 2 - 10' X 50'  
 ONE BUS LOT 1 - 50' X 100'

Grading (Mtl.)	=	100.00
Stone	=	148.00
Paving	=	161.00
Sub-Total	=	<u>409.00</u>

Vertical Curb	=	100.00
City Stand. Curb	=	<u>122.00</u>

Storm Drain	=	200.00
TOTAL	=	<u>731.00</u>
ROUNDED	=	3000.00

## EACH ADDITIONAL BUS (15' X 100').

Grading	=	20.00
Stone	=	148.00
Paving	=	<u>161.00</u>
Vertical Curb	=	<u>60.00</u>
ROUNDED	=	<u>400.00</u>

Bus Loading at SchoolsGeneral Recommendations

1. Safety of pupils should be the primary consideration in locating vehicular traffic on the school site. Convenience, directness and economy are secondary considerations.
2. The bus parking area should be designed in connection with the unloading areas. It should be independent of other driveways and so designed that the buses can be avoided.
3. The bus parking area should be so planned that the movement of buses on the site will be kept to a minimum.
4. The bus parking area should be of sufficient size to accommodate, at one time, buses serving the school. Additional space, possibly undeveloped space, for buses should be reserved for future growth.
5. The bus parking area should be located away from playground areas, and shall be separate from all other vehicle parking areas.
6. The bus parking area should be constructed on a level lot. It should be well drained and all-weather surfaced. Designated spaces and control signs are required.
7. The bus parking area should be planned in such a manner that:
  - a. Pupils unloading from the bus door will walk away from the bus toward the schoolhouse entrance.
  - b. Pupils will not cross any driveway on which other vehicles may be moving.
  - c. Buses arriving on the lot will not cut through the line of pupils waiting for schoolhouse entrance.
8. Driveways to the bus parking lot should never circle the schoolhouse.
9. Driveway turns over which school buses will travel should be laid out so that the radius of each will adequately accommodate maximum length school bus.
10. Sufficient space should be so provided that a convenient place can be found for bus mechanics to define remaining vehicles away enough to the buses to be loaded.

Angle (diagonal) parking is preferable to perpendicular parking. Angle parking lots would more readily to loading and unloading pupils, servicing buses with gasoline and moving buses out of line.

When the bus fleet at any one time exceeds ten to twelve buses, two separate parking areas located apart from one another with separate entrances would conserve time in receiving and dismissing buses and prevent undue confusion in loading and unloading pupils.

#### Suggested Layouts

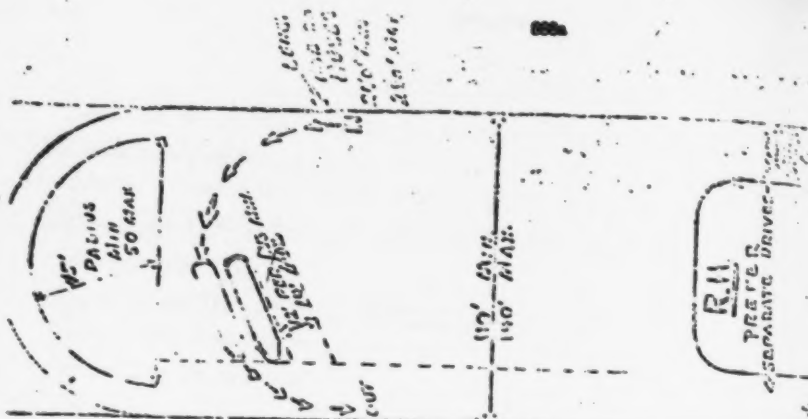
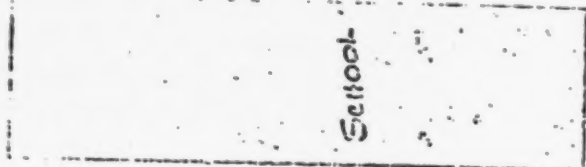
The accompanying diagrams on the following sheets illustrate suggestions for laying out driveways and parking areas for buses.

The suggested parking area layout may be used equally as well for elementary, junior high or senior high schools.

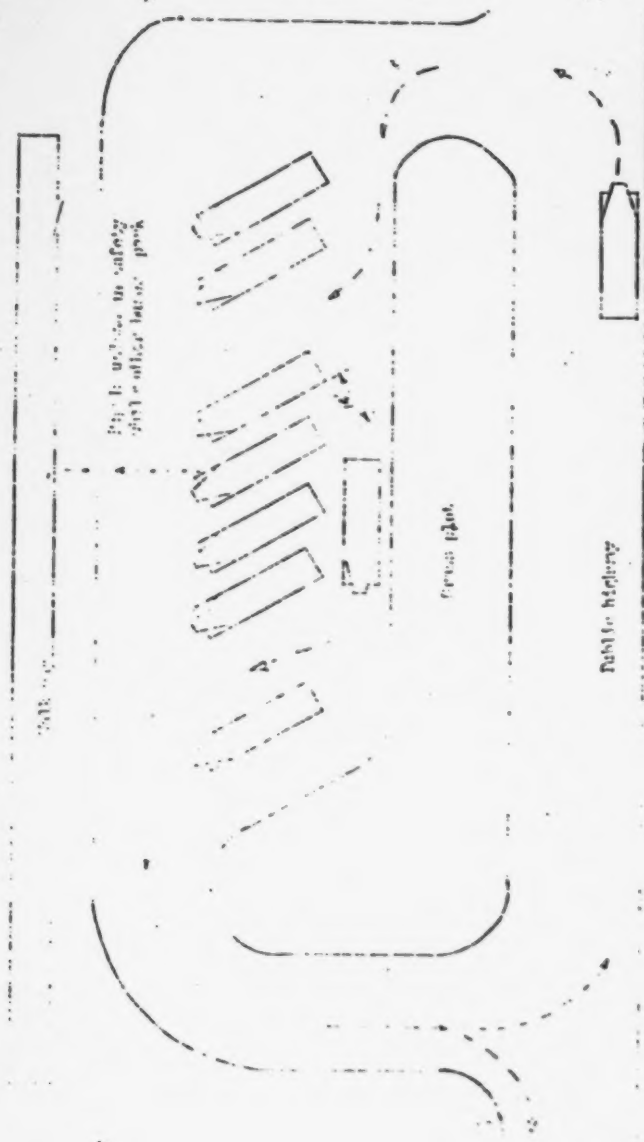
Areas that main school drives should be parked in position nearest the parking area exit to permit freedom of parking exit without having through the lines of pupils unloading or loading.

It is needless to say that while pupils are loading or unloading, or while buses are moving in or off the area, the operation must be under close direction of assigned school personnel to insure safety.

L.H. PARKING LOT N. QUAKES  
 ADJUTANTAL LENGTH OF 110'

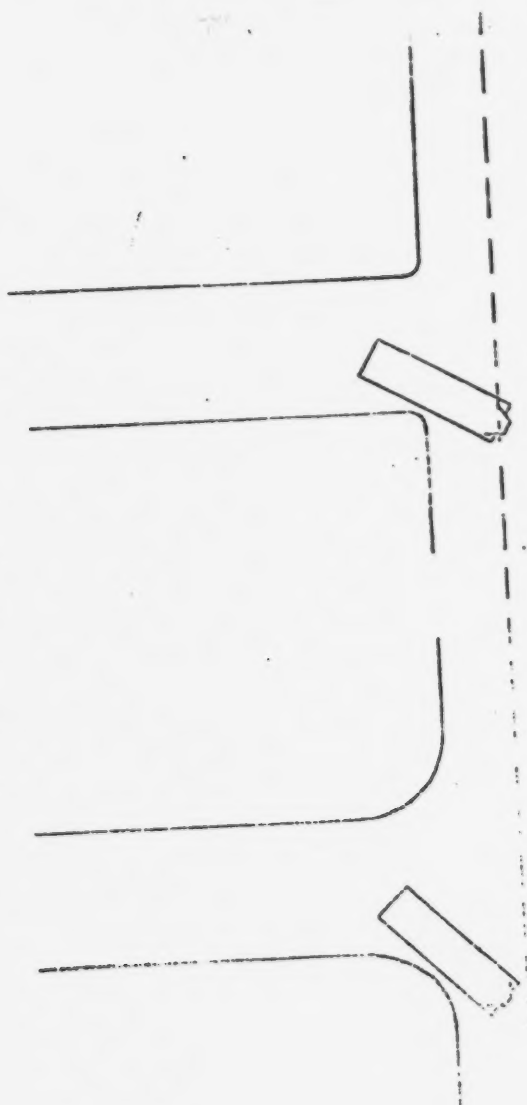


Particular attention, looking and moving  
 to get out off the nearest grounds for  
 maximum full safety





Driveways to bus parking area



800m

public road

Without this driveway at  
junction with public road,  
bus may cross on wrong side of  
center in leaving school grounds

Planned Entrance Drive